

HOUSE No. 1670

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to a woman's right to know..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Court finds that: —

2 (1) The commonwealth has an important interest in ensuring that women seeking
3 abortions are provided a fully informed choice and a sufficient period of time to reflect on the
4 information provided, “to reduce the risk that a woman may elect an abortion, only to discover
5 later, with devastating psychological consequences, that her decision was not fully informed.”
6 *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 882 (1992)

7 (2) Key provisions of section 12S of Chapter 112 of the General Laws are not being
8 enforced due to the continued operation of an out-dated declaratory judgment of the federal
9 district court of Massachusetts issued before the United States Supreme court upheld the
10 constitutionality of informed consent and reflection period protections in its 1992 Casey
11 decision, and other provisions are being implemented in such a manner as to provide an
12 inadequate opportunity for women seeking abortions to make a fully informed choice.

13 Thus, the purpose of the Woman’s Right to Know Act is to ensure that every woman
14 considering an abortion receives complete information on the procedure, the risks, the status of
15 her unborn child, and her alternatives, and sufficient reflection time, thereby reducing the
16 possibility of serious, lasting, or life threatening consequences of a medical, emotional and
17 psychological nature.

18 SECTION 2. This act shall be known and cited as “Laura’s Law”.

19 SECTION 3. Chapter 112 of the General Laws is hereby amended by striking the first
20 paragraph of section 12S, appearing at lines 1 through 19 in the 2006 Official Edition of the
21 General Laws of Massachusetts, and inserting the following: — Section 12S. No physician may
22 perform an abortion upon a pregnant woman without first obtaining her written informed consent
23 in compliance with the following procedures, unless in a case of a medical emergency,
24 compliance would cause the pregnant woman’s death or the woman’s substantial and irreversible
25 impairment of a major bodily function. The referring physician, the physician performing the
26 abortion, or either physician’s agent must provide in a manner enabling the pregnant woman to
27 receive at least twenty-four hours before the time an abortion is scheduled to be performed a
28 printed pamphlet, the internet address to a state-sponsored website, or toll free number for an
29 audio recording, all of which are created and maintained by the commissioner of public health,
30 and which communicate the following general information: a written notice of the patients’
31 rights guaranteed by section 70E of chapter 111 of the General Laws; a comprehensive list of the
32 names, addresses, and contact information of public and private agencies and services available
33 in the Commonwealth to provide medical, financial and other assistance to a woman through
34 pregnancy, upon childbirth, and while her child is dependent, with prenatal, childbirth, neonatal,
35 childrearing, and adoption services; a description of the probable anatomical and physiological

36 characteristics of the unborn child at two week gestational increments from fertilization to full
37 term, including color photographs or if a representative photograph is not available, realistic
38 drawings of the developing unborn child at two week increments, and including written
39 information about brain and heart function and the presence of external members and internal
40 organs at each stage of development; a description of the various methods of abortion, and the
41 physical, psychological and emotional risks or medical complications commonly associated with
42 each method; a description of the physical, psychological and emotional risks or medical
43 complications of pregnancy and delivery; a description of the support obligations of the father of
44 a child born alive; and statements that, under the law of the commonwealth, a pregnant woman
45 has the right upon her request to view a live ultrasound and hear the heartbeat of her unborn child
46 before an abortion, that a person's refusal to undergo abortion does not constitute grounds for the
47 denial of public assistance, that the law permits adoptive parents to pay the cost of prenatal care,
48 childbirth and neonatal care, that the father of the unborn child is liable to assist in the support of
49 the child, even in instances where he has offered to pay for the abortion, that it is unlawful for
50 any individual to coerce a woman to undergo an abortion, and that any physician who performs
51 an abortion upon a woman without obtaining her informed consent may be liable to her for
52 damages in a civil action at law. The texts of the pamphlet, website and audio recording shall be
53 identical in content, incorporate the definitions of abortion, pregnancy, and unborn child as set
54 out in Section 12K of this Chapter, be objective, nonjudgmental and designed to convey only
55 accurate scientific information when discussing fetal development and medical risks, be written
56 in a manner designed to permit a person unfamiliar with medical terminology to understand its
57 purpose and content, and be published in English, Spanish, and Portuguese, and in each other
58 language which is the primary language of 2% or more of the state's population. Prior to the

59 scheduled abortion and before the woman provides her written consent to the abortion, the
60 referring physician or the physician performing the abortion must orally inform the woman of:
61 the nature of the proposed abortion method and associated risks and alternatives that a reasonable
62 patient in the woman's position would consider material to the decision of whether to undergo
63 the abortion; the probable gestational age of the unborn child at the time the abortion is to be
64 performed; and the probable anatomical and physiological characteristics of the unborn child at
65 the time the abortion is to be performed; and her right to see the ultrasound image and hear the
66 heartbeat, if audible through auscultation, of her unborn child before the abortion is to be
67 performed. Also prior to the scheduled abortion and before the woman provides her written
68 consent to the abortion, the referring physician, the physician performing the abortion, or either
69 physician's agent shall orally inform the woman that alternatives to abortion are available, ask
70 the woman if she has seen the information, including the list of abortion alternative agencies,
71 provided in the pamphlet, website or recorded telephone message described in this section, give
72 the woman a copy of the pamphlet if she requests one at this time, and provide the woman with
73 an opportunity to contact abortion alternative agencies at this time should she so desire, and
74 advise the woman that she has the right to see an ultrasound image and hear the fetal heartbeat of
75 her unborn child before an abortion is performed. If requested by the woman before the abortion
76 is performed, the referring physician or the physician performing the abortion shall arrange to
77 provide to her a real-time ultrasound image for her to view and auscultation of fetal heart tone
78 for her to hear of her unborn child. The ultrasound image and the auscultation of fetal heart tone
79 must be of a quality consistent with standard medical practice in the community. Before the
80 scheduled abortion but after she is provided with the opportunity to receive the information
81 described in this section, if she decides to obtain the abortion, the woman shall sign a consent

82 form. The form shall indicate that she has been offered and, if applicable, upon her request
83 received the information and services described in this section and does provide her informed
84 consent to the abortion. The physician performing the abortion shall maintain the signed consent
85 form in the physician's files and destroy it seven years after the date upon which the abortion is
86 performed. The commissioner of public health shall create and publish within ninety days after
87 the effective date of this act, and shall review on an annual basis and update if necessary, the
88 pamphlet, website, telephone recordings, and consent form required by this section. The
89 commissioner shall avail at no cost and in appropriate number to any institution, clinic or
90 physician's office providing abortions the printed materials required under this section.

91 SECTION 4. Chapter 111, section 70E is hereby amended by adding "institution, clinic,
92 or physician's office providing abortions," immediately after the word "clinic," and before the
93 word "infirmery" appearing at line 2 of the 2000 Official Edition of the General Laws of
94 Massachusetts.

95 SECTION 5. If any one or more provision, section, sentence, clause, phrase or word of
96 this Act or the application thereof to any person or circumstance is found by a court to be
97 unconstitutional or otherwise unenforceable, the same is hereby declared to be severable and the
98 balance of this Act shall remain effective notwithstanding. The General Court hereby declares
99 that it would have passed this Act, and each provision, section, sentence, clause, phrase or word
100 thereof, even if any one or more provision, section, sentence, clause, phrase, or word would be
101 found by a court to be unconstitutional or otherwise unenforceable.

102 SECTION 6. This Act shall take effect immediately after its passage by the General
103 Court and approval by the Governor, or upon its otherwise becoming a law.