SENATE DOCKET, NO. 1550 FILED ON: 1/14/2009

# SENATE . . . . . No. 1777

## The Commonwealth of Massachusetts

**In the Year Two Thousand Nine**

An Act relative to the civil rights of certain medical procedures..

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

SECTION 1. This act shall be known and may be cited as the "Massachusetts State Prohibition of Genital Mutilation Act."

SECTION 2. Chapter 265 of the General Laws is hereby amended by adding after Section 13L the following new section:

Section 13M: Genital Mutilation; exceptions, penalties, education, preventative and outreach activities.

(a) For the purpose of this section, the term "genital mutilation" shall mean the removal or cutting or both of the whole or part of the clitoris, labia minora, labia majora, vulva, breast, nipple, foreskin, glans, testicle, penis, ambiguous genitalia, hermaphroditic genitalia, or any genital organ.

(b) For the purpose of this section, the term "premature forcible retraction of the penile or clitoral prepuce" shall mean forced retraction of the prepuce from the glans, except to the extent that the prepuce has already separated from the glans.

(c) For the purpose of this section, the term “prepuce” shall mean foreskin.

(d) Except as provided in subsection (e), whoever knowingly circumcises, excises, cuts, or mutilates the whole or any part of the labia majora, labia minora, clitoris, vulva, breast, nipple, foreskin, glans, testicle, penis, ambiguous genitalia, hermaphroditic genitalia, or genital organs of another person who has not attained the age of 18 years or on any non-consenting adult; or whoever prematurely and forcibly retracts the penile or clitoral prepuce of another person who has not attained the age of 18 years or any non-consenting adult; or whoever knowingly assists with or facilitates any of these acts; or whoever arranges, plans, aids, abets, counsels, facilitates, or procures a genital mutilation operation on another person who has not attained the age of 18 years or any non-consenting adult shall be fined under this title or imprisoned not more than 14 years, or both.

(e) A surgical operation is not a violation of this section if the operation is (1) performed on a person who has not attained the age of 18 years and is necessary to the physical health of the person on whom it is performed because of a clear, compelling and immediate medical need with no less-destructive alternative treatment available, and is performed in a properly licensed facility by a person licensed as a medical practitioner in the place of its performance; (2) performed on an adult who is physically unable to give consent and there is a clear, compelling, and immediate medical need with no less-destructive alternative treatment available, and is performed in a properly licensed facility by a person licensed as a medical practitioner in the place of its performance; or (3) performed on a person in labor or who has just given birth, and is performed for medical purposes connected with that labor or birth because of a clear, compelling, and immediate medical need with no less-destructive alternative treatment available, and is performed in a properly licensed facility by a person licensed as a medical

practitioner in the place of its performance, by a midwife or person in training to become such a medical practitioner or midwife.

(f) In applying subsection (e) no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

(g) The Department of Public Health, in consultation with appropriate state and federal agencies or departments shall establish and implement appropriate education, preventative and outreach activities focusing on, but not limited to: the new immigrant populations that traditionally practice female genital mutilation, hospitals that traditionally practice male and intersex genital mutilation, and religious groups that traditionally practice male genital mutilation, for the purpose of informing members of those communities of the health risks and emotional trauma inflicted by this practice and informing those communities and the medical community of the prohibition and ramifications of this Act.