

SENATE No. 2281

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to promote public safety and protect access to reproductive health care facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	First Worcester
Jay Livingstone	8th Suffolk
Frank I. Smizik	15th Norfolk
Jason M. Lewis	Fifth Middlesex
Paul R. Heroux	2nd Bristol
John W. Scibak	2nd Hampshire
Jennifer E. Benson	37th Middlesex
Lori A. Ehrlich	8th Essex
Aaron Michlewitz	3rd Suffolk
Mary S. Keefe	15th Worcester
David M. Rogers	24th Middlesex
Kate Hogan	3rd Middlesex
James J. O'Day	14th Worcester
Chris Walsh	6th Middlesex
Tom Sannicandro	7th Middlesex
Jay R. Kaufman	15th Middlesex
Peter V. Kocot	1st Hampshire
Louis L. Kafka	8th Norfolk

<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Carole Fiola</i>	<i>6th Bristol</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Stanley C. Rosenberg</i>	<i>Hampshire, Franklin and Worcester</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Evandro Carvalho</i>	<i>5th Suffolk</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Brian R. Mannal</i>	<i>2nd Barnstable</i>

<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Daniel Hunt</i>	<i>13th Suffolk</i>
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Anthony W. Petruccelli</i>	<i>First Suffolk and Middlesex</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>James T. Welch</i>	<i>Hampden</i>

SENATE No. 2281

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 2281) of Harriette L. Chandler, Jay Livingstone, Frank I. Smizik, Jason M. Lewis and other members of the General Court for legislation to promote public safety and to protect access to reproductive health care facilities. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act to promote public safety and protect access to reproductive health care facilities.

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. Section 11H of chapter 12 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by adding the following paragraph:-

3 If the attorney general prevails in an action under this section, the attorney general shall
4 be entitled to: (i) an award of compensatory damages for any aggrieved person or entity; and (ii)
5 litigation costs and reasonable attorneys’ fees in an amount to be determined by the court. In a
6 matter involving the interference or attempted interference with any right protected by the
7 constitution of the United States or of the commonwealth, the court may also award civil
8 penalties against each defendant in an amount not exceeding \$5,000 for each violation.

9 SECTION 2. Chapter 266 of the General Laws is hereby amended by striking out section
10 120E½, as so appearing, and inserting in place thereof the following section:-

11 Section 120E½. (a) As used in this section, the following words shall have the following
12 meanings unless the context clearly requires otherwise:

13 “Driveway”, an entry from a public street to a public or private parking area used by a
14 reproductive health care facility.

15 “Entrance”, a door to a reproductive health care facility that directly abuts the public
16 sidewalk; provided, however, that if the door does not directly abut the public sidewalk, the
17 “entrance” shall be the point at which the public sidewalk intersects with a pathway leading to
18 the door.

19 “Gathering”, 2 or more individuals.

20 “Impede”, to obstruct, block, detain or render passage impossible, unsafe or unreasonably
21 difficult.

22 “Law enforcement official”, a duly authorized member of a law enforcement agency,
23 including a member of a municipal, metropolitan or state police department, sheriffs or deputy
24 sheriffs.

25 “Reproductive health care facility”, a place, other than within or upon the grounds of a
26 hospital, where abortions are offered or performed including, but not limited to, the building,
27 grounds and driveway of the facility and a parking lot in which the facility has an ownership or
28 leasehold interest.

29 (b) A law enforcement official may order the immediate dispersal of a gathering that
30 substantially impedes access to or departure from an entrance or a driveway to a reproductive
31 health care facility. A dispersal order issued pursuant to this section shall include the following
32 statements: (i) the gathering has substantially impeded access to or departure from the
33 reproductive health care facility; (ii) each member of the gathering shall, under the penalty of
34 arrest and prosecution, immediately disperse and cease to stand or be located within at least 25
35 feet of an entrance or a driveway to the reproductive health care facility; and (iii) the order shall
36 remain in place for 8 hours or until the close of business of the reproductive health facility,
37 whichever is earlier. This subsection shall apply during the business hours of a reproductive
38 health care facility. This subsection shall also apply only if the 25-foot boundary is clearly
39 marked and subsections (a) through (c), inclusive, of this section are posted outside of the
40 reproductive health care facility.

41 (c) A person who fails to comply with a dispersal order pursuant to subsection (b) shall
42 be punished, for the first offense, by a fine of not more than \$500 or not more than 3 months in a
43 jail or house of correction or by both such fine and imprisonment and, for each subsequent
44 offense, by a fine of not less than \$500 nor more than \$5,000 or not more than 2½ years in a jail
45 or house of correction or by both such fine and imprisonment.

46 (d) A person who, by force, physical act or threat of force, intentionally injures or
47 intimidates or attempts to injure or intimidate a person who attempts to access or depart from a
48 reproductive health care facility shall be punished, for the first offense, by a fine of not more
49 than \$2,000 or not more than 1 year in a jail or house of correction or by both such fine and
50 imprisonment and, for each subsequent offense, by a fine of not less than \$10,000 nor more than
51 \$50,000 or not more than 2½ years in a jail or house of correction or not more than 5 years in a
52 state prison or by both such fine and imprisonment. For the purpose of this subsection,
53 “intimidate” shall mean to place a person in reasonable apprehension of bodily harm to that
54 person or another.

55 (e) A person who impedes a person's access to or departure from a reproductive health
56 care facility with the intent to interfere with that person's ability to provide, support the provision
57 of or obtain services at the reproductive health care facility shall be punished, for the first
58 offense, by a fine of not more than \$1,000 or not more than 6 months in a jail or house of
59 correction or by both such fine and imprisonment and, for each subsequent offense, by a fine of
60 not less than \$5,000 nor more than \$25,000 or not more than 2½ years in a jail or house of
61 correction or not more than 5 years in the state prison or by both such fine and imprisonment.

62 (f) A person who knowingly impedes or attempts to impede a person or a vehicle
63 attempting to access or depart from a reproductive health care facility shall be punished, for the
64 first offense, by a fine of not more than \$500 or not more than 3 months in a jail or house of
65 correction or by both such fine and imprisonment and, for each subsequent offense, by a fine of
66 not less than \$1,000 nor more than \$5,000 or not more than 2½ years in a jail or house of
67 correction or by both such fine and imprisonment.

68 (g) A person who recklessly interferes with the operation of a vehicle that attempts to
69 enter, exit or park at a reproductive health care facility shall be punished, for the first offense, by
70 a fine of not more than \$500 or not more than 3 months in a jail or house of correction or by both
71 such fine and imprisonment and, for each subsequent offense, by a fine of not less than \$1,000
72 nor more than \$5,000 or not more than 2½ years in a jail or house of correction or by both such
73 fine and imprisonment.

74 (h) A person who fails to comply with a dispersal order pursuant to said subsection (b) or
75 who violates subsections (c), (d), (e), (f) or (g) may be arrested without a warrant by a law
76 enforcement official.

77 (i) If a person or entity fails to comply with a dispersal order pursuant to subsection (b) or
78 violates subsections (c), (d), (e), (f) or (g), an aggrieved person or entity or the attorney general
79 or both may commence a civil action. The civil action shall be commenced either in the superior
80 court for the county in which the conduct complained of occurred or in the superior court for the
81 county in which the person or entity complained of resides or has a principal place of business.

82 (j) In an action pursuant to subsection (i), a court may award as remedies: (1) temporary,
83 preliminary and permanent injunctive relief; (2) compensatory and punitive damages; and (3)
84 costs, attorneys' fees and expert witness fees. In an action brought by the attorney general
85 pursuant to subsection (i), the court may also award civil penalties against each defendant in an
86 amount not exceeding: (A) \$10,000 for a nonviolent violation and \$15,000 for other first
87 violations; and (B) \$15,000 for a subsequent nonviolent violation and \$25,000 for any other
88 subsequent violation.

89 (k) A violation of an injunction entered by a court in an action brought pursuant to
90 subsection (i) shall be a criminal offense under section 11J of chapter 12.