

SENATE No. 788

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 protect girls from genital mutilation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>2/3/2017</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>	<i>1/20/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/25/2017</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/25/2017</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>1/25/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/25/2017</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>1/25/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>1/25/2017</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>1/26/2017</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>	<i>1/30/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/2/2017</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/7/2017</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>	<i>1/30/2017</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/30/2017</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/31/2017</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>	<i>1/31/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>

<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/31/2017</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>1/31/2017</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/1/2017</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	<i>2/1/2017</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>2/1/2017</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>2/1/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/2/2017</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>2/2/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/3/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/3/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/3/2017</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>2/3/2017</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>2/3/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/3/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>3/7/2017</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/3/2017</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/3/2017</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>	<i>2/3/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>2/6/2017</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>	<i>2/5/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/3/2017</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>2/28/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/3/2017</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>3/3/2017</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>3/3/2017</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	<i>3/7/2017</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>3/7/2017</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>5/17/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>6/16/2017</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>11/9/2017</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>10/3/2017</i>

SENATE No. 788

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 788) of Harriette L. Chandler, Sarah K. Peake, Leonard Mirra, Marjorie C. Decker and other members of the General Court for legislation to protect girls from genital mutilation. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to protect girls from genital mutilation.

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. Chapter 111 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 220 the following new section:-

3 Section 220A. (a) The commissioner shall develop and administer a program of
4 education, prevention and outreach for communities that commonly practice female genital
5 mutilation as defined in section 59 of chapter 265. The program shall be designed to inform
6 those communities about the health risks and emotional trauma inflicted by the practice of
7 female genital mutilation, as well as the criminal penalties for committing female genital
8 mutilation.

9 (b) The commissioner shall develop policies and procedures to promote partnerships
10 between the department, agencies and political subdivisions of the commonwealth such as the
11 Department of Elementary and Secondary Education, the Department of Children and Families,
12 the Executive Office of Public Safety and Security, and the Attorney General's Office, other

13 government entities and non-governmental organizations to prevent female genital mutilation
14 and to protect and provide assistance to victims of female genital mutilation.

15 (c) The commissioner shall make recommendations and develop procedures regarding
16 strategies and methodologies for training providers of health services on recognizing the risk
17 factors associated with female genital mutilation and the signs that an individual may be a victim
18 of female genital mutilation.

19 (d) The commissioner shall develop regulations to carry out this section and may, subject
20 to appropriation, contract with non-governmental organizations, entities or individuals with
21 experience working with victims of female genital mutilation to provide training and materials
22 and other services as the department deems necessary.

23 SECTION 2. Section 21 of chapter 119 of the General Laws, as appearing in the 2014
24 Official Edition, is hereby amended by inserting after the word "faculty", in line 81, the
25 following words:- ", including female genital mutilation, as defined in section 59 of chapter
26 265".

27 SECTION 3. Chapter 119 of the General Laws, as appearing in the 2014 Official Edition,
28 is hereby amended by inserting after section 39L the following section:-

29 Section 39M. (a) Notwithstanding any general or special law to the contrary, the
30 department of children and families, in collaboration with the department of mental health and
31 other appropriate state agencies, shall: (i) provide for the child welfare services needs of children
32 who have undergone or are at risk of female genital mutilation including, but not limited to,
33 services for victims of female genital mutilation residing in the commonwealth at the time they
34 are identified by the department as victims or at risk of female genital mutilation, for the duration

35 of any legal or administrative proceeding in which they are either the complaining witness,
36 defendant or the subject child; and (ii) provide appropriate services to a child reasonably
37 believed to be a victim of or at risk of female genital mutilation in order to safeguard the child's
38 welfare. If a child reasonably believed to be a victim of or at risk of female genital mutilation
39 declines services or is unable or unwilling to participate in the services offered, the department or
40 any person may file a care and protection petition under section 24 of this chapter. Child victims
41 of female genital mutilation or those at risk of female genital mutilation shall have access to an
42 advocate. The advocate or a member of the multidisciplinary service team established under
43 section 51D of this chapter shall accompany the child to all court appearances and may serve as a
44 liaison between the service providers and the court.

45 (b) The services that shall be provided under this section shall be available to all child
46 victims of female genital mutilation or those at risk of female genital mutilation, whether they
47 are accessed voluntarily, through a court proceeding under this section or through a referral,
48 which may be made by any person.

49 (c) The commissioner of the department may, subject to appropriation, contract with non-
50 governmental organizations or entities with experience working with victims of female genital
51 mutilation or those at risk of female genital mutilation to train law enforcement officials likely to
52 encounter victims of female genital mutilation in the course of their law enforcement duties. The
53 training shall include, but not be limited to, awareness and compliance with the provisions of this
54 section, identification of, access to, and the provision of services for victims of female genital
55 mutilation or those at risk of female genital mutilation and any other services the department
56 deems necessary.

57 (d) The department shall adopt regulations to carry out this section.

58 SECTION 4. Section 51A of chapter 119 of the General Laws, as appearing in the 2014
59 Official Edition, is hereby amended by striking out the first full paragraph of subsection (a), and
60 inserting in place thereof the following subsection:-

61 (a) A mandated reporter who, in his professional capacity, has reasonable cause to
62 believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted
63 upon him which causes harm or substantial risk of harm to the child's health or welfare,
64 including sexual abuse and/or female genital mutilation, or the substantial risk of female genital
65 mutilation, as defined in section 59 of chapter 265; (ii) neglect, including malnutrition; (iii)
66 physical dependence upon an addictive drug at birth; (iv) being a sexually exploited child; or (v)
67 being a human trafficking victim, as defined in section 20M of chapter 233, shall immediately
68 communicate with the department orally and, within 48 hours, shall file a written report with the
69 department detailing the suspected abuse or neglect.

70 SECTION 5. Section 51B of chapter 119 of the General Laws, as appearing in the 2014
71 Official Edition, is hereby amended by inserting after the word "authorities", in line 7, the
72 following words:- " , a child who is a victim of female genital mutilation, or is at substantial risk
73 of female genital mutilation, as defined in section 59 of chapter 265".

74 SECTION 6. Section 51D of said chapter 119 of the General Laws, as appearing in the
75 2014 Official Edition, is hereby amended by inserting after the seventh paragraph the following
76 paragraph:-

77 For 51A reports specifically involving a child who is a victim of female genital
78 mutilation, or is at substantial risk of female genital mutilation, as defined in section 59 of

79 chapter 265, the multi-disciplinary service team may consist of a team of professionals trained or
80 otherwise experienced and qualified to assess the needs of children who have undergone or are at
81 risk of female genital mutilation, including, but not limited to, a police officer, as defined by
82 section 1 of chapter 90C, or other person designated by a police chief, as defined in said section
83 1 of said chapter 90C, an employee of the department of children and families, a representative
84 of the appropriate district attorney, a social service provider, a medical professional or a mental
85 health professional. The purpose of said team shall be to determine whether the child is a victim
86 of, or is at substantial risk of, female genital mutilation and to recommend a plan for services to
87 the department that may include, but shall not be limited to, shelter or placement, mental health
88 and medical care needs and other social services.

89 SECTION 7. Chapter 260 of the General Laws, as appearing in the 2014 Official Edition,
90 is hereby amended by inserting after section 4D the following new section:-

91 Section 4E. (a) A victim of female genital mutilation as defined in section 59 of chapter
92 265 may bring a civil action in any court of competent jurisdiction for female genital mutilation.
93 The victim may bring said action regardless of where the alleged female genital mutilation
94 occurred. A court of the commonwealth may exercise jurisdiction over a defendant in such an
95 action on any basis not inconsistent with the Constitution of the commonwealth or of the United
96 States. The court may award actual damages, compensatory damages, punitive damages,
97 injunctive relief or any other appropriate relief. A prevailing plaintiff shall be awarded attorney's
98 fees and costs. Treble damages may be awarded on proof of actual damages if the defendant's
99 acts were willful and malicious. The doctrines of forum non conveniens and exhaustion of local
100 remedies shall not apply to claims arising under this section.

101 (b) A civil action for female genital mutilation shall be commenced within 10 years after
102 the date the plaintiff turns 18.

103 SECTION 8. Chapter 265 of the General Laws, as appearing in the 2014 Official Edition,
104 is hereby amended by adding the following section:-

105 Section 59. (a) As used in this section, the following words shall have the following
106 meanings:-

107 “Child”, shall mean a person under the age of 18.

108 “Female genital mutilation” shall mean all procedures involving partial or total removal
109 of the female genitalia or other injury to the female genital organs, or any harmful procedure to
110 the female genitalia, including but not limited to clitoridectomy or the partial or total removal of
111 the clitoris or the prepuce, excision or the partial or total removal of the clitoris and the labia
112 minora, with or without excision of the labia majora, infibulation or the narrowing of the vaginal
113 orifice with the creation of a covering seal by cutting and appositioning the labia minora or the
114 labia majora, with or without excision of the clitoris, and all other actions intended to alter the
115 structure or function of the female genitalia for non-medical reasons, but excluding surgery
116 performed by a health care professional when necessary to preserve or protect the physical health
117 of the patient or for sex reassignment as requested by the patient.

118 “Health care professional”, shall mean a physician or other health care practitioner
119 licensed, accredited or certified in the commonwealth to perform specified health services.

120 (b) Whoever commits female genital mutilation on a child shall be guilty of the crime of
121 female genital mutilation and shall be punished by imprisonment for a term of not more than 10

122 years in state prison or not more than 2.5 years in a house of correction. The superior court and
123 the district court shall have concurrent jurisdiction.

124 (c) Whoever holds or takes a child in the commonwealth or holds or takes a child outside
125 the commonwealth to commit female genital mutilation or to permit another to commit female
126 genital mutilation upon the child shall be punished by imprisonment for a term of not more than
127 10 years in state prison or not more than 2.5 years in a house of correction. The superior court
128 and the district court shall have concurrent jurisdiction.

129 (d) Whoever, having care or custody of a child, wantonly or recklessly permits another to
130 commit female genital mutilation upon the child shall be punished by imprisonment for a term of
131 not more than 2.5 years in a house of correction.

132 (e) It shall not be a defense to a prosecution under this section that (i) the child or the
133 child's guardian consented to the commission of female genital mutilation, or (ii) female genital
134 mutilation is a matter of custom, ritual or standard practice.

135 SECTION 9. Section 16D of chapter 278 of the General Laws, as so appearing, is hereby
136 amended by striking out, in lines 6 and 7, the words "or 50 of chapter two hundred and sixty-
137 five", and inserting in place thereof the following words:- ", 50 or 59 of chapter 265".