

HOUSE No. 1466

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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 prohibit female genital mutilation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/17/2019</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/24/2019</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/17/2019</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/17/2019</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>1/30/2019</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>1/31/2019</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>	<i>1/31/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>1/28/2019</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>	<i>1/28/2019</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>1/28/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/29/2019</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/30/2019</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>1/31/2019</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>1/31/2019</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/1/2019</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>	<i>2/1/2019</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>2/1/2019</i>

HOUSE No. 1466

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 1466) of Bradley H. Jones, Jr., and others relative to the penalties for the crime of female genital mutilation. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to prohibit female 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 2016 Official Edition,
2 is hereby amended by inserting after section 220, the following new section:—

3 (a) The commissioner shall develop and administer a program of community education,
4 prevention and outreach activities regarding the health risks and emotional trauma inflicted by
5 the practice of female genital mutilation, as defined in section 59 of chapter 265, and informing
6 the community of the criminal penalties for committing female genital mutilation.

7 (b) The commissioner shall develop policies and procedures to promote partnerships
8 between the department, agencies and political subdivisions of the commonwealth such as the
9 department of elementary and secondary education, the department of children and families, the
10 executive office of public safety and security, the attorney general’s office, and other
11 government entities and non-governmental organizations to prevent female genital mutilation
12 and to protect and provide assistance to victims of female genital mutilation.

13 (c) The commissioner shall develop policies and procedures for the training of health care
14 professionals regarding the risk factors associated with female genital mutilation and recognizing
15 the signs that an individual may be a victim of female genital mutilation.

16 SECTION 2. Section 21 of chapter 119 of the General Laws, as appearing in the 2016
17 Official Edition, is hereby amended by inserting after the word "faculty", in line 81, the
18 following words:- , including female genital mutilation, as defined in section 59 of chapter 265.

19 SECTION 3. Chapter 119 of the General Laws, as appearing in the 2016 Official Edition,
20 is hereby amended by inserting after section 39L the following section:-

21 Section 39M. (a) Notwithstanding any general or special law to the contrary, the
22 department of children and families, in collaboration with the department of mental health and
23 other appropriate state agencies, shall: (i) provide for the child welfare services needs of children
24 who have undergone or are at risk of female genital mutilation including, but not limited to,
25 services for victims of female genital mutilation residing in the commonwealth at the time they
26 are identified by the department as victims or at risk of female genital mutilation, for the duration
27 of any legal or administrative proceeding in which they are either the complaining witness,
28 defendant or the subject child; and (ii) provide appropriate services to a child reasonably
29 believed to be a victim of or at risk of female genital mutilation in order to safeguard the child's
30 welfare. If a child reasonably believed to be a victim of or at risk of female genital mutilation
31 declines services or is unable or unwilling to participate in the services offered, the department or
32 any person may file a care and protection petition under section 24 of this chapter. Child victims
33 of female genital mutilation or those at risk of female genital mutilation shall have access to an
34 advocate. The advocate or a member of the multidisciplinary service team established under

35 section 51D of this chapter shall accompany the child to all court appearances and may serve as a
36 liaison between the service providers and the court.

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

41 (c) The commissioner of the department may, subject to appropriation, contract with non-
42 governmental organizations or entities with experience working with victims of female genital
43 mutilation or those at risk of female genital mutilation to train law enforcement officials likely to
44 encounter victims of female genital mutilation in the course of their law enforcement duties. The
45 training shall include, but not be limited to, awareness and compliance with the provisions of this
46 section, identification of, access to, and the provision of services for victims of female genital
47 mutilation or those at risk of female genital mutilation and any other services the department
48 deems necessary.

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

50 SECTION 4. Section 51A of chapter 119 of the General Laws, as appearing in the 2016
51 Official Edition, is hereby amended by striking out the first full paragraph of subsection (a), and
52 inserting in place thereof the following subsection:-

53 (a) A mandated reporter who, in his professional capacity, has reasonable cause to
54 believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted
55 upon him which causes harm or substantial risk of harm to the child's health or welfare,
56 including sexual abuse or female genital mutilation, or the substantial risk of female genital

57 mutilation, as defined in section 59 of chapter 265; (ii) neglect, including malnutrition; (iii)
58 physical dependence upon an addictive drug at birth; (iv) being a sexually exploited child; or (v)
59 being a human trafficking victim, as defined in section 20M of chapter 233, shall immediately
60 communicate with the department orally and, within 48 hours, shall file a written report with the
61 department detailing the suspected abuse or neglect.

62 SECTION 5. Section 51B of chapter 119 of the General Laws, as appearing in the 2016
63 Official Edition, is hereby amended by inserting after the word "authorities", in line 7, the
64 following words:- , a child who is a victim of female genital mutilation, or is at substantial risk of
65 female genital mutilation, as defined in section 59 of chapter 265.

66 SECTION 6. Section 51D of said chapter 119 of the General Laws, as appearing in the
67 2016 Official Edition, is hereby amended by inserting after the seventh paragraph the following
68 paragraph:-

69 For 51A reports specifically involving a child who is a victim of female genital
70 mutilation, or is at substantial risk of female genital mutilation, as defined in section 59 of
71 chapter 265, the multi-disciplinary service team may consist of a team of professionals trained or
72 otherwise experienced and qualified to assess the needs of children who have undergone or are at
73 risk of female genital mutilation, including, but not limited to, a police officer, as defined by
74 section 1 of chapter 90C, or other person designated by a police chief, as defined in said section
75 1 of said chapter 90C, an employee of the department of children and families, a representative
76 of the appropriate district attorney, a social service provider, a medical professional or a mental
77 health professional. The purpose of said team shall be to determine whether the child is a victim
78 of, or is at substantial risk of, female genital mutilation and to recommend a plan for services to

79 the department that may include, but shall not be limited to, shelter or placement, mental health
80 and medical care needs and other social services.

81 SECTION 7. Chapter 260 of the General Laws, as appearing in the 2016 Official Edition,
82 is hereby amended by inserting after section 4D the following new section:-

83 Section 4E. (a) A victim of female genital mutilation as defined in section 59 of chapter
84 265 may bring a civil action in any court of competent jurisdiction for female genital mutilation.
85 The victim may bring an action regardless of where the alleged female genital mutilation
86 occurred. A court of the commonwealth may exercise jurisdiction over a defendant in such an
87 action on any basis not inconsistent with the constitution of the commonwealth or of the United
88 States. The court may award actual damages, compensatory damages, punitive damages,
89 injunctive relief or any other appropriate relief. A prevailing plaintiff shall be awarded attorney's
90 fees and costs. Treble damages may be awarded on proof of actual damages if the defendant's
91 acts were willful and malicious. The doctrines of forum non conveniens and exhaustion of local
92 remedies shall not apply to claims arising under this section.

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

95 SECTION 8. Chapter 265 of the General Laws, as appearing in the 2016 Official Edition,
96 is hereby amended by adding the following section:—

97 Section 59. (a) As used in this section, the following words shall have the following
98 meanings:—

99 "Child" shall mean a person under the age of 18.

100 “Female genital mutilation”, shall mean all procedures that involve partial or total
101 removal of the external female genitalia, or any harmful procedure to the female genitalia,
102 including but not limited to clitoridectomy or the partial or total removal of the clitoris or the
103 prepuce, excision or the partial or total removal of the clitoris and the labia minora, with or
104 without excision of the labia majora, infibulation or the narrowing of the vaginal orifice with the
105 creation of a covering seal by cutting and appositioning the labia minora or the labia majora,
106 with or without excision of the clitoris, pricking, piercing, incising, scraping, and cauterizing the
107 genital area and all other actions intended to alter the structure or function of the female genitalia
108 for non-medical reasons.

109 (b) Any person:

110 1. who commits female genital mutilation on a child; or

111 2. who is a parent, guardian, or has immediate custody or control of a child and consents
112 to, permits, or facilitates female genital mutilation of such child; or

113 3. who removes or causes or permits or facilitates the removal of a child from the
114 commonwealth for the purpose of female genital mutilation of such child shall be guilty of
115 female genital mutilation and shall be punished by imprisonment for a term of not more than 15
116 years in state prison or not more than 2.5 years in a house of correction.

117 (c) It shall not be a defense to a prosecution under this section that the female genital
118 mutilation is required as a matter of religion, custom, ritual or standard practice, or that the child
119 on whom it is performed or the child’s parent or guardian consented to the procedure.

120 (d) A surgical procedure is not a violation of this section if the procedure is performed
121 by a person licensed in the place it is performed as a medical professional and is:

122 1. necessary to preserve or protect the physical health of the person on whom it is
123 performed;

124 2. for sex reassignment as requested by the patient; or

125 3. performed on a person in labor or who has just given birth and is performed for
126 medical purposes connected with that labor or birth.

127 (e) A violation of this section by a health care professional licensed to practice in the
128 commonwealth shall result in the permanent revocation of such license.