

SENATE No. 834

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

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 relative to female genital mutilation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>1/17/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/17/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/18/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/22/2019</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>1/23/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/23/2019</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/24/2019</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/28/2019</i>
<i>Barry R. Finegold</i>	<i>Second Essex and Middlesex</i>	<i>1/29/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/30/2019</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>1/30/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/30/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>1/31/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>1/31/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>1/31/2019</i>

<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/1/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2019</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>	<i>2/1/2019</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>3/5/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/15/2019</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>3/15/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>3/15/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>4/9/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>4/9/2019</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>4/9/2019</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>4/12/2019</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>4/12/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>4/12/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>4/12/2019</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>4/22/2019</i>
<i>James T. Welch</i>	<i>Hampden</i>	<i>4/29/2019</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>4/29/2019</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>5/10/2019</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>6/12/2019</i>
<i>Dean A. Tran</i>	<i>Worcester and Middlesex</i>	<i>7/18/2019</i>

SENATE No. 834

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 834) of Joseph A. Boncore, Harriette L. Chandler, Paul R. Feeney, Patricia D. Jehlen and other members of the General Court for legislation relative to female genital mutilation. The Judiciary.

The Commonwealth of Massachusetts

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

An Act relative to 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 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 60 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. Chapter 260 of the General Laws, as appearing in the 2016 Official Edition,
24 is hereby amended by inserting after section 4D the following new section:-

25 Section 4E. (a) A victim of female genital mutilation as defined in section 60 of chapter
26 265 may bring a civil action in any court of competent jurisdiction for female genital mutilation.
27 The victim may bring said action regardless of where the alleged female genital mutilation
28 occurred. A court of the commonwealth may exercise jurisdiction over a defendant in such an
29 action on any basis not inconsistent with the Constitution of the commonwealth or of the United
30 States. The court may award actual damages, compensatory damages, punitive damages,
31 injunctive relief or any other appropriate relief. A prevailing plaintiff shall be awarded attorney's
32 fees and costs. Treble damages may be awarded on proof of actual damages if the defendant's
33 acts were willful and malicious. The doctrines of forum non conveniens and exhaustion of local
34 remedies shall not apply to claims arising under this section.

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

37 SECTION 3. Chapter 265 of the General Laws, as appearing in the 2016 Official Edition,
38 is hereby amended by adding the following section:-

39 Section 60. (a) As used in this section, the following words shall have the following
40 meanings:-

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

42 “Female genital mutilation” shall mean all procedures involving partial or total removal
43 of the female genitalia or other injury to the female genital organs, or any harmful procedure to
44 the female genitalia, including but not limited to clitoridectomy or the partial or total removal of
45 the clitoris or the prepuce, excision or the partial or total removal of the clitoris and the labia
46 minora, with or without excision of the labia majora, infibulation or the narrowing of the vaginal
47 orifice with the creation of a covering seal by cutting and appositioning the labia minora or the
48 labia majora, with or without excision of the clitoris, and all other actions intended to alter the
49 structure or function of the female genitalia for non-medical reasons, but excluding surgery
50 performed by a health care professional when necessary to preserve or protect the physical health
51 of the patient or for gender reassignment as requested by the patient.

52 (b) Whoever commits female genital mutilation on a child shall be guilty of the crime of
53 female genital mutilation and shall be punished by imprisonment for a term of not more than 10
54 years in state prison or not more than 2.5 years in a house of correction and by a fine of not more
55 than \$10,000. The superior court and the district court shall have concurrent jurisdiction.

56 (c) Whoever holds or takes a child in the commonwealth or holds or takes a child outside
57 the commonwealth to commit female genital mutilation or to permit another to commit female
58 genital mutilation upon the child shall be punished by imprisonment for a term of not more than
59 10 years in state prison or not more than 2.5 years in a house of correction and by a fine of not
60 more than \$10,000. The superior court and the district court shall have concurrent jurisdiction.

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

64 SECTION 4. Section 16D of chapter 278 of the General Laws, as so appearing, is hereby
65 amended by striking out, in lines 6 and 7, the words "or 50 of chapter two hundred and sixty-
66 five", and inserting in place thereof the following words:- ", 50 or 60 of chapter 265"

67 SECTION 5. Chapter 231 of the General Laws, as appearing in the 2016 Official
68 Edition, is hereby amended by striking out section 85P and inserting in place thereof the
69 following section:-

70 Section 85P. (a) Except as otherwise specifically provided by law, any person domiciled
71 in the commonwealth who has reached the age of 18 shall for all purposes, and any other person
72 who has reached the age of 18 shall with respect to any transaction governed by the law of the
73 commonwealth, be deemed of full legal capacity unless legally incapacitated for some reason
74 other than insufficient age.

75 (b) Notwithstanding subsection (a), a minor 13 years of age or older may appear in a
76 court of competent jurisdiction without a parent, guardian, next friend, counsel, or guardian ad
77 litem, for the purpose of requesting or opposing a request for any of the following:

78 (i) an order pursuant to chapter 209A;

79 (ii) an order pursuant to chapter 258E.

80 (c) If a minor at least 13 years of age seeks relief in a matter under subsection (b) and is

81 not represented by an attorney, the minor shall be informed that the minor has a right to

82 appointed counsel and the court shall appoint an attorney to represent the minor.

83 Notwithstanding, the court may proceed with an emergency ex parte hearing. Appointment of

84 counsel shall be made through the Committee for Public Counsel Services.

85 (d) Subsection (b) shall not prevent a parent, guardian, custodian, or other appropriate

86 adult to file or oppose a request for relief in a matter under subsection (b) on behalf of a minor of

87 any age. In matters falling under subsection (b) in which a parent, guardian, custodian or other

88 appropriate adult has sought relief on behalf of a minor plaintiff 13 years of age or older, the

89 court shall consider the expressed wishes of the minor plaintiff in deciding whether to grant

90 relief pursuant to subsection (b) and in determining the contents of such an order.