

SENATE No. 1518

The Commonwealth of Massachusetts

PRESENTED BY:

Rebecca L. Rausch

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 advancing the health of pregnant persons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/23/2021</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/26/2021</i>

SENATE No. 1518

By Ms. Rausch, a petition (accompanied by bill, Senate, No. 1518) of Rebecca L. Rausch, Kay Khan and Natalie M. Higgins for legislation to advance the health of pregnant persons. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1335 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act advancing the health of pregnant persons.

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 17C of chapter 32A of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the words “coverage for”, in line 3, the
3 following words:- abortion and abortion-related care, and by inserting after the words
4 “postpartum care,” in line 4 the following words:- “including postpartum mental health care,”.

5 SECTION 2. Said section 17C of said chapter 32A, as so appearing, is hereby further
6 amended by adding the following sentences:-

7 Coverage provided under this section shall not be subject to any deductible, coinsurance,
8 copayment or any other cost-sharing requirement. Coverage offered under this section shall not
9 impose unreasonable restrictions or delays in the coverage.

10 Benefits for an enrollee under this section shall be the same for the enrollee's covered
11 spouse and covered dependents.

12 The commission shall ensure plan compliance with this chapter.

13 SECTION 3. Section 12I of chapter 112 of the General Laws, as amended by Chapter
14 226 of the Acts of 2020, is hereby amended by adding the following sentence:- No conscientious
15 objection shall be valid if an abortion is required to preserve the life of the pregnant person and
16 no medical staff other than the objector are available to perform or support the performance of
17 the abortion, as applicable.

18 SECTION 4. Said chapter 112, as so appearing, is hereby further amended in section 12K
19 by striking the word "12R" and inserting in place thereof the word:- 12U; and further amended
20 by adding the following definitions:-

21 "Abortion-related service", a medically appropriate service complementary to the
22 performance of an abortion.

23 "Provider", a licensed health care professional who, acting within their scope of practice,
24 may lawfully perform an abortion or provide abortion-related services.

25 "Provider facility", a structure in which a provider performs abortions or provides
26 abortion-related services.

27 "Telemedicine" shall have the same meaning as defined in chapter 32A, as amended by
28 Chapter 260 of the Acts of 2020.

29 SECTION 5. Said chapter 112, as so appearing, is hereby further amended in section 12L
30 by inserting after each instance of the word “abortion” the following words:- or abortion-related
31 services;

32 and further amended by striking the word “is” and inserting in place thereof the word:-
33 are;

34 and further amended by inserting the following sentence:- Every person who is or might
35 become pregnant shall have an affirmative right to decide whether, when, and how to prevent,
36 commence, terminate, or continue their own pregnancy, including but not limited to the ability to
37 access and receive abortion and abortion-related services, consistent with this chapter.

38 SECTION 6. Said chapter 112, as so appearing, is hereby further amended in section 12P
39 by striking the second sentence.

40 SECTION 7. Said chapter 112, as so appearing, is hereby further amended by striking out
41 section 12R and inserting in place thereof the following 3 sections:-

42 Section 12R. A provider must obtain a pregnant person’s written informed consent prior
43 to performing an abortion in a form prescribed by the commissioner of the department of public
44 health, and the pregnant person must execute said informed consent form prior to receiving an
45 abortion, except: (1) in an emergency, when an abortion is required to preserve the health of the
46 pregnant person, in which case the provider may perform the abortion without an executed
47 informed consent form; or (2) when a pregnant person is incapacitated due to vegetative state,
48 and said pregnant person was incapacitated prior to and at all times during the pregnancy, and
49 another person serves as legally valid health care proxy for the pregnant person, in which case
50 the health care proxy must execute the informed consent form. A pregnant person’s signature on

51 the consent form shall not be deemed invalid due to the pregnant person's age. No waiting period
52 shall be imposed between the execution of the consent form and the performance of the abortion.
53 Providers shall maintain executed informed consent forms for a period of time and in a manner
54 consistent with retention of other medical records.

55 The consent form and any other forms or related documents shall be confidential and
56 shall not be released to any other person except by the patient's written informed consent or by a
57 proper judicial order, other than to the patient themselves, to whom such documents relate, the
58 provider who performed the abortion or any person whose consent is obtained pursuant to this
59 section or under any other applicable state or federal law.

60 Section 12S. (a) No pregnant person shall be required, as a precondition to receiving an
61 abortion or abortion-related service, to: (i) wait for any period of time, beyond the standard of
62 care or as may be operationally necessary, after executing the informed consent form required by
63 this chapter to initiate an abortion or abortion-related services; (ii) undergo an ultrasound
64 inconsistent with the standard of care; (iii) review, see, or hear the results of an ultrasound; (iv)
65 appear at a provider facility for purposes of receiving an abortion or abortion-related service
66 more than is consistent with the standard of care; or (v) receive counseling or information in any
67 format or medium that is medically inaccurate, medically unnecessary, or misleading.

68 (b) Provider facilities shall not be required to: (i) affiliate in any way with, or be
69 constructed within a specified distance of, a hospital, as defined in section 52 of chapter 111; (ii)
70 comply or substantially comply with the licensure requirements for clinics providing ambulatory
71 surgery, consistent with section 51 of chapter 111, unless the provider facility otherwise operates
72 as a free standing ambulatory surgical center; (iii) construct or maintain medically unnecessary

73 physical structures, sizes, or spaces; (iv) hire only providers with admitting privileges at a
74 hospital, as defined in section 52 of chapter 111; or (v) comply with any other medically
75 unnecessary physical or operational standards or requirements.

76 (c) The Attorney General shall enforce this section, provided that nothing herein shall
77 preclude a private right of action asserting violations thereof. All actions must be commenced
78 within ten years after the cause of action accrues.

79 Section 12T. The department of public health shall publish on its website and in print
80 copy a listing of provider facilities opting to be included on said listing. The listing shall be
81 updated annually, or more frequently as required or requested by a provider or provider facility.

82 Section 12U. A provider acting within the scope of their license shall be permitted to
83 prescribe medication abortion and provide correlating abortion-related services via telemedicine.

84 SECTION 8. Section 10A of chapter 118E of the General Laws, as appearing in the 2018
85 Official Edition, is hereby amended by inserting after the words “coverage for”, in line 1, the
86 following words:- “abortion and abortion-related care,” and by inserting after the words
87 “postpartum care,” in line 2 the words:- “including postpartum mental health care,”.

88 SECTION 9. Said section 10A of said chapter 118E, as so appearing, is hereby further
89 amended by adding the following sentences:-

90 Coverage provided under this section shall not be subject to any deductible, coinsurance,
91 copayment or any other cost-sharing requirement. Coverage offered under this section shall not
92 impose unreasonable restrictions or delays in the coverage.

93 Benefits for an enrollee under this section shall be the same for the enrollee’s covered
94 spouse and covered dependents.

95 Nothing in this section shall be construed to deny or restrict the division’s authority to
96 ensure its contracted health insurers, health plans, health maintenance organizations, behavioral
97 health management firms and third-party administrators under contract to a Medicaid managed
98 care organization or primary care clinician plan are in compliance with this chapter.

99 SECTION 10. Section 10E of said chapter 118E, as so appearing, is hereby amended and
100 by inserting after the words “gynecological care” in lines 20-21, the following words:- “,
101 including postpartum mental health care”.

102 SECTION 11. Section 47F of chapter 175 of the General Laws, as appearing in the 2018
103 Official Edition, is hereby amended by inserting after the words “for the expense of”, in line 20,
104 the following words:- abortion and abortion-related care, and by inserting after the words “post
105 partum care” in line 21, “including post partum mental health care,”.

106 SECTION 12. Said section 47F of said chapter 175, as so appearing, is hereby further
107 amended by inserting after the third paragraph the following paragraphs:-

108 Coverage provided under this section shall not be subject to any deductible, coinsurance,
109 copayment or any other cost-sharing requirement. Coverage offered under this section shall not
110 impose unreasonable restrictions or delays in the coverage.

111 Benefits for an enrollee under this section shall be the same for the enrollee’s covered
112 spouse and covered dependents.

113 A policy of accident and sickness insurance that is purchased by an employer that is a
114 church or qualified church-controlled organization, as defined in section 47W of this chapter,
115 shall be exempt from covering abortion and abortion-related care at the request of the employer.
116 An employer that invokes the exemption under this section shall provide written notice to
117 prospective enrollees prior to enrollment with the plan and such notice shall list the health care
118 methods and services for which the employer will not provide coverage for religious reasons.

119 SECTION 13. Section 8H of chapter 176A of the General Laws, as appearing in the 2018
120 Official Edition, is hereby amended by inserting after the words “expense for”, in line 8, the
121 following words:- “abortion and abortion-related care,” and by inserting after the words “post
122 partum care,” in lines 7-8 the following words:- “ including postpartum mental health care,”.

123 SECTION 14. Said section 8H of said chapter 176A, as so appearing, is hereby further
124 amended by striking out, in lines 9 and 10, the words “to the same extent that benefits are
125 provided for medical conditions not related to pregnancy”.

126 SECTION 15. Said section 8H of said chapter 176A, as so appearing, is hereby further
127 amended by inserting after the third paragraph the following paragraphs:-

128 Coverage provided under this section shall not be subject to any deductible, coinsurance,
129 copayment or any other cost-sharing requirement. Coverage offered under this section shall not
130 impose unreasonable restrictions or delays in the coverage.

131 Benefits for an enrollee under this section shall be the same for the enrollee’s covered
132 spouse and covered dependents.

133 A policy of accident and sickness insurance that is purchased by an employer that is a
134 church or qualified church-controlled organization, as defined in section 8W of this chapter, shall
135 be exempt from covering abortion and abortion-related care at the request of the employer. An
136 employer that invokes the exemption under this subsection shall provide written notice to
137 prospective enrollees prior to enrollment with the plan and such notice shall list the health care
138 methods and services for which the employer will not provide coverage for religious reasons.

139 SECTION 16. Section 4H of chapter 176B of the General Laws, as appearing in the 2018
140 Official Edition, is hereby amended by inserting after the words “expense for”, in lines 7 and 8,
141 the following words:- “abortion and abortion-related care,” and by inserting after the words “post
142 partum care,” in line 8 the following words:- “ including postpartum mental health care,”.

143 SECTION 17. Said section 4H of said chapter 176B, as so appearing, is hereby further
144 amended by striking out, in lines 8 to 10, inclusive, the words “to the same extent that benefits
145 are provided for medical conditions not related to pregnancy”.

146 SECTION 18. Said section 4H of said chapter 176B, as so appearing, is hereby further
147 amended by inserting after the third paragraph the following paragraphs:-

148 Coverage provided under this section shall not be subject to any deductible, coinsurance,
149 copayment or any other cost-sharing requirement. Coverage offered under this section shall not
150 impose unreasonable restrictions or delays in the coverage.

151 Benefits for an enrollee under this section shall be the same for the enrollee’s covered
152 spouse and covered dependents.

153 A policy of accident and sickness insurance that is purchased by an employer that is a
154 church or qualified church-controlled organization, as defined in section 4W of this chapter, shall
155 be exempt from covering abortion and abortion-related care at the request of the employer. An
156 employer that invokes the exemption under this subsection shall provide written notice to
157 prospective enrollees prior to enrollment with the plan and such notice shall list the health care
158 methods and services for which the employer will not provide coverage for religious reasons.

159 SECTION 19. Section 4I of chapter 176G of the General Laws, as appearing in the 2018
160 Official Edition, is hereby amended by inserting after the words “coverage for”, in lines 1 and 2,
161 the following words:- “abortion and abortion-related care,” and by inserting after the words
162 “postpartum care,” in line 2 the following words:- “ including postpartum mental health care,”.

163 SECTION 20. Said section 4I of said chapter 176G, as so appearing, is hereby further
164 amended by inserting after the second paragraph the following paragraphs:-

165 Coverage provided under this section shall not be subject to any deductible, coinsurance,
166 copayment or any other cost-sharing requirement. Coverage offered under this section shall not
167 impose unreasonable restrictions or delays in the coverage.

168 Benefits for an enrollee under this section shall be the same for the enrollee’s covered
169 spouse and covered dependents.

170 A health maintenance contract that is purchased by an employer that is a church or
171 qualified church-controlled organization, as defined in section 40 of this chapter, shall be exempt
172 from covering abortion and abortion-related care at the request of the employer. An employer
173 that invokes the exemption under this subsection shall provide written notice to prospective

174 enrollees prior to enrollment with the plan and such notice shall list the health care methods and
175 services for which the employer will not provide coverage for religious reasons.

176 SECTION 21. Sections 1, 2, and 8-19, inclusive, of this act shall take effect 6 months
177 after the effective date of this act.

178 SECTION 22. Except as otherwise specified, this act shall take effect upon its passage.