

HOUSE No. 1599

The Commonwealth of Massachusetts

PRESENTED BY:

Sally P. Kerans and 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 enhancing access to abortion care.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|---------------------------------|---|------------------|
| <i>Sally P. Kerans</i> | <i>13th Essex</i> | <i>1/20/2023</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Worcester and Middlesex</i> | <i>1/26/2023</i> |
| <i>Lindsay N. Sabadosa</i> | <i>1st Hampshire</i> | <i>1/26/2023</i> |
| <i>Carmine Lawrence Gentile</i> | <i>13th Middlesex</i> | <i>1/26/2023</i> |
| <i>Carol A. Doherty</i> | <i>3rd Bristol</i> | <i>2/1/2023</i> |
| <i>Jennifer Balinsky Armini</i> | <i>8th Essex</i> | <i>2/1/2023</i> |
| <i>Steven Owens</i> | <i>29th Middlesex</i> | <i>2/3/2023</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>2/10/2023</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> | <i>2/24/2023</i> |
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> | <i>2/27/2023</i> |
| <i>Tram T. Nguyen</i> | <i>18th Essex</i> | <i>2/27/2023</i> |
| <i>Vanna Howard</i> | <i>17th Middlesex</i> | <i>2/28/2023</i> |
| <i>Natalie M. Higgins</i> | <i>4th Worcester</i> | <i>2/28/2023</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>3/17/2023</i> |
| <i>Manny Cruz</i> | <i>7th Essex</i> | <i>3/17/2023</i> |
| <i>Kevin G. Honan</i> | <i>17th Suffolk</i> | <i>3/17/2023</i> |
| <i>Marjorie C. Decker</i> | <i>25th Middlesex</i> | <i>5/8/2023</i> |
| <i>Tommy Vitolo</i> | <i>15th Norfolk</i> | <i>5/12/2023</i> |

| | | |
|--------------------------------|--|-------------------|
| <i>Michelle L. Ciccolo</i> | <i>15th Middlesex</i> | <i>5/19/2023</i> |
| <i>Mike Connolly</i> | <i>26th Middlesex</i> | <i>5/25/2023</i> |
| <i>Simon Cataldo</i> | <i>14th Middlesex</i> | <i>5/25/2023</i> |
| <i>James C. Arena-DeRosa</i> | <i>8th Middlesex</i> | <i>6/22/2023</i> |
| <i>Samantha Montaño</i> | <i>15th Suffolk</i> | <i>6/26/2023</i> |
| <i>Dylan A. Fernandes</i> | <i>Barnstable, Dukes and Nantucket</i> | <i>8/22/2023</i> |
| <i>Patricia A. Duffy</i> | <i>5th Hampden</i> | <i>8/22/2023</i> |
| <i>Thomas M. Stanley</i> | <i>9th Middlesex</i> | <i>8/22/2023</i> |
| <i>Christine P. Barber</i> | <i>34th Middlesex</i> | <i>8/22/2023</i> |
| <i>John Francis Moran</i> | <i>9th Suffolk</i> | <i>8/22/2023</i> |
| <i>Adrienne Pusateri Ramos</i> | <i>14th Essex</i> | <i>10/24/2023</i> |
| <i>Erika Uyterhoeven</i> | <i>27th Middlesex</i> | <i>10/24/2023</i> |
| <i>Estela A. Reyes</i> | <i>4th Essex</i> | <i>11/7/2023</i> |
| <i>Margaret R. Scarsdale</i> | <i>1st Middlesex</i> | <i>11/7/2023</i> |
| <i>Jay D. Livingstone</i> | <i>8th Suffolk</i> | <i>12/18/2023</i> |

HOUSE No. 1599

By Representative Kerans of Danvers and Senator Rausch, a joint petition (accompanied by bill, House, No. 1599) of Sally P. Kerans, Rebecca L. Rausch and others relative to further regulating access to abortion care. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act enhancing access to abortion care.

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 112 of the General Laws, as appearing in the 2020 Official Edition,
2 is hereby amended in section 12F by striking out, in lines 14 and 15, the words “have come in
3 contact with” and inserting in place thereof the following words:- be at risk of contracting; and
4 further amended by inserting after the word “diagnosis”, in line 18, the following word:- ,
5 prevention; and further amended by striking out the third paragraph.

6 SECTION 2. Said chapter 112, as so appearing, is hereby further amended in section 12I
7 by adding at the end thereof the following sentence:- No conscientious objection shall be valid if
8 an abortion is required to preserve the life of a pregnant person and no medical staff other than
9 the objector are available to perform or support the performance of the abortion.

10 SECTION 3. Said chapter 112, as so appearing, is hereby further amended in section 12K
11 by striking out the word “12R” and inserting in place thereof the following word:- 12R.4; and
12 further amended by adding the following definitions:-

13 “Abortion-related care”, a medically appropriate service complementary to the
14 performance of an abortion.

15 “Provider”, a licensed health care professional who, acting within their scope of practice,
16 may lawfully perform an abortion or provide abortion-related care.

17 “Provider facility”, a structure in which a provider performs abortions or provides
18 abortion-related care.

19 SECTION 4. Said chapter 112, as so appearing, is hereby further amended in section 12L
20 by inserting after each instance of the word “abortion” the following words:- or abortion-related
21 care; and further amended by striking the word “is” and inserting in place thereof the word:- are.

22 SECTION 5. Said chapter 112, as so appearing, is hereby further amended in section
23 12M by striking the words “physician, physician assistant, nurse practitioner or nurse midwife”
24 and inserting in place thereof the following word:- provider.

25 SECTION 6. Said chapter 112, as so appearing and as amended by Chapter 127 of the
26 Acts of 2022, is hereby further amended in section 12N by striking the word “physician” in each
27 instance and inserting in place thereof the following word:- provider.

28 SECTION 7. Said chapter 112, as amended by Chapter 127 of the Acts of 2022, is hereby
29 further amended in section 12N½ by striking the word “physician” in each instance and inserting
30 in place thereof the following word:- provider.

31 SECTION 8. Section 12O of said chapter 112, as so appearing, is hereby repealed.

32 SECTION 9. Said chapter 112, as so appearing, is hereby further amended in section 12P
33 by striking the second sentence.

34 SECTION 10. Said chapter 112, as so appearing, is hereby further amended in section
35 12Q by striking the words “performed by a physician, physician assistant, certified nurse
36 practitioner or certified nurse midwife”.

37 SECTION 11. Said chapter 112, as so appearing, is hereby further amended by striking
38 out section 12R and inserting in place thereof the following sections:-

39 Section 12R. A provider must obtain a pregnant person’s written informed consent prior
40 to performing an abortion in a multilingual form prescribed by the commissioner of the
41 department of public health, and the pregnant person must execute said informed consent form
42 prior to receiving an abortion, except: (1) in an emergency, when an abortion is required to
43 preserve the health of the pregnant person, in which case the provider may perform the abortion
44 without an executed informed consent form; or (2) when a pregnant person is incapacitated due
45 to vegetative state, and said pregnant person was incapacitated prior to and at all times during the
46 pregnancy, and another person serves as legally valid health care proxy for the pregnant person,
47 in which case the health care proxy must execute the informed consent form. A pregnant
48 person’s signature on the consent form shall not be deemed invalid due to the pregnant person’s
49 age. No waiting period shall be imposed between the execution of the consent form and the
50 performance of the abortion. Providers shall maintain executed informed consent forms for a
51 period of time and in a manner consistent with retention of other medical records.

52 (b) The consent form and any other forms or related documents shall be confidential and
53 shall not be released to any person other than the patient, the person whose consent is validly
54 obtained pursuant to this section or any other applicable state or federal law, or the provider who
55 performed the abortion, except by the patient’s written informed consent or proper judicial order.

56 Section 12R.1. (a) No pregnant person shall be required, as a precondition to receiving
57 health-related information, health services or medical care, to: (i) wait for any period of time,
58 beyond the standard of care or as may be operationally necessary, after executing the informed
59 consent form required by this chapter to initiate an abortion or abortion-related care; (ii) undergo
60 an ultrasound inconsistent with the standard of care; (iii) review, see, or hear the results of an
61 ultrasound; (iv) appear at a provider facility for purposes of receiving an abortion or abortion-
62 related care more frequently or for a longer duration than is consistent with the standard of care;
63 or (v) receive counseling or information in any format or medium that is medically inaccurate,
64 medically unnecessary, or misleading.

65 (b) Provider facilities shall not be required to: (i) affiliate in any way with, or be
66 constructed within a specified distance of, a hospital, as defined in section 52 of chapter 111; (ii)
67 construct or maintain medically unnecessary physical structures, sizes, or spaces; (iii) hire only
68 providers with admitting privileges at a hospital, as defined in section 52 of chapter 111; or (iv)
69 comply with any other medically unnecessary physical or operational standards or requirements.
70 Provider facilities shall be required to comply or substantially comply with the licensure
71 requirements for clinics providing ambulatory surgery, consistent with section 51 of chapter 111,
72 only if the provider facility otherwise operates as a free standing ambulatory surgical center.

73 (c) The attorney general shall enforce this section, provided that nothing herein shall
74 preclude a private right of action asserting violations thereof. All actions must be commenced
75 within ten years after the cause of action accrues.

76 Section 12R.2. (a) The department of public health shall publish on its website and in
77 print copy a listing of provider facilities opting to be included on said listing. The listing shall be
78 updated annually, or more frequently as required or requested by a provider or provider facility.

79 (b) The department of public health shall engage in a culturally competent and
80 linguistically diverse public education campaign to educate providers and the public about so-
81 called crisis pregnancy centers and pregnancy resource centers, including without limitation the
82 lack of medical services or licensed medical professionals at said centers and the availability of
83 licensed medical and family planning services across the commonwealth.

84 (c) The department of veterans services shall, in consultation with the department of
85 public health, provide information to veterans residing in the commonwealth and their families
86 regarding available abortion services and support for obtaining those services, including without
87 limitation financial assistance provided pursuant to chapter 118E.

88 Section 12R.3. A person may not provide ultrasound services pertaining to a possible or
89 actual pregnancy except under the supervision of a provider or other licensed health care
90 professional who, acting within their scope of practice, provides medical care for people who are
91 pregnant or may become pregnant.

92 Section 12R.4. A health care professional working in a school based health center shall
93 keep confidential any abortion-related information or care provided to a patient at the center.