

**HOUSE . . . . . No. 1721**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***John R. Gaskey***

*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 for informed consent In public health.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>John R. Gaskey</i>	<i>2nd Plymouth</i>	<i>1/10/2025</i>
<i>Mike Bush</i>	<i>280 Lowell St, Carlisle, MA, 01741</i>	<i>1/10/2025</i>
<i>Justin Thurber</i>	<i>5th Bristol</i>	<i>1/14/2025</i>

**HOUSE . . . . . No. 1721**

By Representative Gaskey of Carver, a petition (accompanied by bill, House, No. 1721) of John R. Gaskey, Mike Bush and Justin Thurber relative to informed consent In public health. The Judiciary.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Fourth General Court  
(2025-2026)**

An Act for informed consent In public health.

*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 so appearing, is hereby amended by  
2 inserting the following new section:

3 “Section 183A.

4 (1) DEFINITIONS - The following words used in this section shall have the following  
5 meanings unless the context clearly requires otherwise:

6 “Non-invasive”, a test, procedure, or treatment in which the body is not penetrated or  
7 entered by a needle, tube, device, swab, or scope, or one in which no substance is administered  
8 orally or otherwise.

9 “Public entity”, the federal or any State or local government; any department, agency,  
10 special purpose district, or other instrumentality of the federal or a State or States or local

11 government; and the National Railroad Passenger Corporation, and any commuter authority (as  
12 defined in section 24102(4) of U.S. title 49).

13 “Facilities”, all or any portion of buildings, structures, sites, complexes, equipment,  
14 rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or  
15 personal property, including the site where the building, property, structure, or equipment is  
16 located.

17 (2) CANONS OF CONSTRUCTION

18 (a) This section and its parts shall be construed broadly in favor of expansive coverage to  
19 the maximum extent permitted by the terms of this section.

20 (b) This section does not invalidate or limit the remedies, rights, and procedures of any  
21 other Federal laws, or State or local laws (including State common law) that provide greater or  
22 equal protection for the health or medical autonomy or health or medical privacy rights of  
23 persons.

24 (c) The primary object of attention in cases brought under this section should be whether  
25 entities have complied with their obligations and whether violations have occurred. Accordingly,  
26 the threshold issue of whether a person has standing to sue should not involve much analysis.

27 (d) If any portion of this section is held to be void, the other parts of this section shall  
28 remain in full force and effect.

29 (3) PERSONS’ RIGHTS TO MEDICAL AUTONOMY AND PRIVACY –

30 (a) All persons shall have the right to the full and equal accommodations, advantages,  
31 facilities, services, benefits, and privileges of any place of public accommodation (as defined in

32 M.G.L. Ch 272 § 92A), transportation, education, child care, travel, or public entity without  
33 being compelled to acquiesce to medical treatments, tests, procedures, products, or interventions  
34 (whether those are purportedly for the benefit of that person or others); collection of specimens;  
35 or sharing of personal health or medical information. And persons shall be free from  
36 discrimination, stigmatization, punishment, coercion, retaliation, or lesser or disparate treatment  
37 due to their choices regarding those matters. This right is recognized and declared to be a civil  
38 right.

39 (b) All persons within the Commonwealth of Massachusetts and residents of the  
40 Commonwealth of Massachusetts shall have the right to full and equal employment and  
41 contracting without regard to a person's choice to engage or not engage with medical treatments,  
42 tests, procedures, products, or interventions (whether those are purportedly for the benefit of that  
43 person or others); collection of specimens; or sharing of personal health or medical information.  
44 And persons shall be free from discrimination, stigmatization, punishment, coercion, retaliation,  
45 or lesser or disparate treatment due to their choices regarding those matters. This right is  
46 recognized and declared to be a civil right.

47 (c) All persons may extend and exercise their rights under subsections 3(a) and 3(b) to  
48 make choices for their minor children over whom they have legal custody. This right is  
49 recognized and declared to be a civil right.

50 (d) In no case may a collective agreement or the consent of a group leader or other  
51 authority substitute for an individual's informed consent.

52 (e) The foregoing rights in this section shall not be nullified, suspended, lessened, or  
53 otherwise infringed, whether by declaration of an emergency or other reason.

54 (4) RETALIATION AND COERCION

55 (a) No private or public entity shall discriminate against any individual because that  
56 individual has opposed any act or practice made unlawful by this section, or because that  
57 individual made a charge, testified, assisted, or participated in any manner in an investigation,  
58 proceeding, or hearing under this section.

59 (b) No private or public entity shall coerce, intimidate, threaten, or interfere with any  
60 individual in the exercise or enjoyment of, or on account of his or her having exercised or  
61 enjoyed, or on account of his or her having aided or encouraged any other individual in the  
62 exercise or enjoyment of, any right granted or protected by this section.

63 (c) Any violation of subsection 4(a) or 4(b) shall constitute an actionable violation of that  
64 person's civil rights under subsection 3.

65 (5) DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHERS -

66 (a) This section does not require any entity to permit an individual to participate in or  
67 benefit from the services, programs, facilities, or activities of that entity when and only when that  
68 individual poses a direct threat to the health or safety of others.

69 (b) In determining whether an individual poses a direct threat to the health or safety of  
70 others, an entity must make an individualized assessment based on reasonable judgment that  
71 relies on current medical knowledge or on the best available objective evidence, to ascertain: the  
72 nature, duration, and severity of the risk; the probability that the potential injury will actually  
73 occur; and whether reasonable modifications of policies, practices, or procedures or the provision  
74 of auxiliary aids or services will mitigate the risk. If the direct threat is alleged to be infection

75 with a pathogen contagious to others, such ascertainment of the nature of the risk shall only be a  
76 test that: (i) has full approval and licensure by the agency authorized by law to issue such  
77 approval and licensure and is (ii) administered uniformly amongst persons rather than targeted to  
78 the person(s) exercising their rights under this section. Prejudice, assumptions, and  
79 generalizations are impermissible and shall not substitute for such an individualized assessment  
80 including all of the elements specified in the first sentence of this paragraph.

81 (6) REMEDIES

82 A person whose rights under this section have been violated may bring private civil  
83 action against the public or private entity and individual persons for (i) an injunction against any  
84 further violation; (ii) appropriate affirmative relief, including, but not limited to, admission or  
85 reinstatement of employment with back pay plus 10 percent interest; (iii) compensatory  
86 damages; (iv) punitive damages; and (v) any other relief necessary to ensure compliance with  
87 this section. The person is entitled to all such relief regardless of the method or manner used to  
88 violate their rights. No person shall be required to pursue or exhaust administrative or other  
89 remedies before bringing such private civil action.

90 Compensatory damages awarded for each violation of a person's rights under this section  
91 shall be: (i) sufficient to fully compensate the person for all damages resulting from the  
92 violation; and (ii) when considered in light of the violator's assets and income, sufficient to deter  
93 further violations; but in no event shall be less than \$5,000.

94 A prevailing plaintiff is to be awarded reasonable attorney's fees and costs incurred in  
95 connection with said private civil action.

96           If a person delivers written notice specifying in what way(s) an entity or person has  
97 violated their rights under this section and requested relief, it shall constitute prima facie  
98 evidence of willful violation of this section if the violator fails to correct its violation(s) and  
99 deliver written notice of its correction(s) within 10 days. Such failure on the part of any public  
100 personnel shall nullify any indemnification or legal immunity they may have otherwise had  
101 under M.G.L. Ch. 258 or any other provision. That or any other violation a court finds to be  
102 grossly negligent, knowing, or willful requires all damages awarded to be doubled. Failure to  
103 fully and consistently disclose readily knowable, specific adverse effects and risks of the medical  
104 treatment, product, measure, or intervention the entity or person imposed on, requested of, or  
105 suggested to the person bringing suit shall constitute prima facie evidence of gross negligence.

106           (7) EXCEPTION FOR BONA FIDE OCCUPATIONAL REQUIREMENTS

107           Nothing in this section shall preclude drug or alcohol testing or any reasonable  
108 requirement for non-invasive medical testing or measures to fulfill bona fide occupational  
109 requirements such as but not limited to requiring a pilot to undergo a vision test or wear  
110 corrective lenses while piloting an aircraft.

111           SECTION 2. This act shall take effect 60 days after its passage.