

HOUSE No. 1670

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth Poirier

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 passage of the accompanying bill:

An Act relative to a woman's right to know.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Elizabeth Poirier	14th Bristol
Angelo M. Scaccia	14th Suffolk
Jeffrey Davis Perry	5th Barnstable
Colleen M. Garry	36th Middlesex
John P. Fresolo	16th Worcester
Bradford R. Hill	4th Essex
Michael F. Kane	5th Hampden
George N. Peterson, Jr.	9th Worcester
Viriato Manuel deMacedo	1st Plymouth
Richard J. Ross	9th Norfolk
Michael F. Rush	10th Suffolk
James R. Miceli	19th Middlesex
Michael R. Knapik	Second Hampden and Hampshire
Todd M. Smola	1st Hampden
F. Jay Barrows	1st Bristol
Paul J. Donato	35th Middlesex
Thomas P. Kennedy	Second Plymouth and Bristol
Stephen R. Canessa	12th Bristol

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1687 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO A WOMAN'S RIGHT TO KNOW.

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. The General Court finds that: —

2 (1) The commonwealth has an important interest in ensuring that women seeking abortions are provided
3 a fully informed choice and a sufficient period of time to reflect on the information provided, “to reduce
4 the risk that a woman may elect an abortion, only to discover later, with devastating psychological
5 consequences, that her decision was not fully informed.” Planned Parenthood of Southeastern
6 Pennsylvania v. Casey, 505 U.S. 833, 882 (1992)

7 (2) Key provisions of section 12S of Chapter 112 of the General Laws are not being enforced due to the
8 continued operation of an out-dated declaratory judgment of the federal district court of Massachusetts
9 issued before the United States Supreme court upheld the constitutionality of informed consent and
10 reflection period protections in its 1992 Casey decision, and other provisions are being implemented in
11 such a manner as to provide an inadequate opportunity for women seeking abortions to make a fully
12 informed choice.

13 Thus, the purpose of the Woman’s Right to Know Act is to ensure that every woman considering an
14 abortion receives complete information on the procedure, the risks, the status of her unborn child, and her
15 alternatives, and sufficient reflection time, thereby reducing the possibility of serious, lasting, or life
16 threatening consequences of a medical, emotional and psychological nature.

17 SECTION 2. This act shall be known and cited as “Laura’s Law”.

18 SECTION 3. Chapter 112 of the General Laws is hereby amended by striking the first paragraph of
19 section 12S, appearing at lines 1 through 19 in the 2006 Official Edition of the General Laws of
20 Massachusetts, and inserting the following: —

21 Section 12S. No physician may perform an abortion upon a pregnant woman without first obtaining her
22 written informed consent in compliance with the following procedures, unless in a case of a medical
23 emergency, compliance would cause the pregnant woman’s death or the woman’s substantial and
24 irreversible impairment of a major bodily function. The referring physician, the physician performing the
25 abortion, or either physician’s agent must provide in a manner enabling the pregnant woman to receive at
26 least twenty-four hours before the time an abortion is scheduled to be performed a printed pamphlet, the
27 internet address to a state-sponsored website, or toll free number for an audio recording, all of which are
28 created and maintained by the commissioner of public health, and which communicate the following
29 general information: a written notice of the patients’ rights guaranteed by section 70E of chapter 111 of
30 the General Laws; a comprehensive list of the names, addresses, and contact information of public and
31 private agencies and services available in the Commonwealth to provide medical, financial and other
32 assistance to a woman through pregnancy, upon childbirth, and while her child is dependent, with
33 prenatal, childbirth, neonatal, childrearing, and adoption services; a description of the probable
34 anatomical and physiological characteristics of the unborn child at two week gestational increments from
35 fertilization to full term, including color photographs or if a representative photograph is not available,
36 realistic drawings of the developing unborn child at two week increments, and including written
37 information about brain and heart function and the presence of external members and internal organs at
38 each stage of development; a description of the various methods of abortion, and the physical,
39 psychological and emotional risks or medical complications commonly associated with each method; a
40 description of the physical, psychological and emotional risks or medical complications of pregnancy and
41 delivery; a description of the support obligations of the father of a child born alive; and statements that,
42 under the law of the commonwealth, a pregnant woman has the right upon her request to view a live
43 ultrasound and hear the heartbeat of her unborn child before an abortion, that a person’s refusal to
44 undergo abortion does not constitute grounds for the denial of public assistance, that the law permits
45 adoptive parents to pay the cost of prenatal care, childbirth and neonatal care, that the father of the unborn
46 child is liable to assist in the support of the child, even in instances where he has offered to pay for the
47 abortion, that it is unlawful for any individual to coerce a woman to undergo an abortion, and that any
48 physician who performs an abortion upon a woman without obtaining her informed consent may be liable
49 to her for damages in a civil action at law. The texts of the pamphlet, website and audio recording shall be

50 identical in content, incorporate the definitions of abortion, pregnancy, and unborn child as set out in
51 Section 12K of this Chapter, be objective, nonjudgmental and designed to convey only accurate scientific
52 information when discussing fetal development and medical risks, be written in a manner designed to
53 permit a person unfamiliar with medical terminology to understand its purpose and content, and be
54 published in English, Spanish, and Portuguese, and in each other language which is the primary language
55 of 2% or more of the state's population. Prior to the scheduled abortion and before the woman provides
56 her written consent to the abortion, the referring physician or the physician performing the abortion must
57 orally inform the woman of: the nature of the proposed abortion method and associated risks and
58 alternatives that a reasonable patient in the woman's position would consider material to the decision of
59 whether to undergo the abortion; the probable gestational age of the unborn child at the time the abortion
60 is to be performed; and the probable anatomical and physiological characteristics of the unborn child at
61 the time the abortion is to be performed; and her right to see the ultrasound image and hear the heartbeat,
62 if audible through auscultation, of her unborn child before the abortion is to be performed. Also prior to
63 the scheduled abortion and before the woman provides her written consent to the abortion, the referring
64 physician, the physician performing the abortion, or either physician's agent shall orally inform the
65 woman that alternatives to abortion are available, ask the woman if she has seen the information,
66 including the list of abortion alternative agencies, provided in the pamphlet, website or recorded
67 telephone message described in this section, give the woman a copy of the pamphlet if she requests one at
68 this time, and provide the woman with an opportunity to contact abortion alternative agencies at this time
69 should she so desire, and advise the woman that she has the right to see an ultrasound image and hear the
70 fetal heartbeat of her unborn child before an abortion is performed. If requested by the woman before the
71 abortion is performed, the referring physician or the physician performing the abortion shall arrange to
72 provide to her a real-time ultrasound image for her to view and auscultation of fetal heart tone for her to
73 hear of her unborn child. The ultrasound image and the auscultation of fetal heart tone must be of a
74 quality consistent with standard medical practice in the community. Before the scheduled abortion but
75 after she is provided with the opportunity to receive the information described in this section, if she
76 decides to obtain the abortion, the woman shall sign a consent form. The form shall indicate that she has
77 been offered and, if applicable, upon her request received the information and services described in this
78 section and does provide her informed consent to the abortion. The physician performing the abortion
79 shall maintain the signed consent form in the physician's files and destroy it seven years after the date
80 upon which the abortion is performed. The commissioner of public health shall create and publish within
81 ninety days after the effective date of this act, and shall review on an annual basis and update if necessary,
82 the pamphlet, website, telephone recordings, and consent form required by this section. The

83 commissioner shall avail at no cost and in appropriate number to any institution, clinic or physician's
84 office providing abortions the printed materials required under this section.

85 SECTION 4. Chapter 111, section 70E is hereby amended by adding "institution, clinic, or physician's
86 office providing abortions," immediately after the word "clinic," and before the word "infirmary"
87 appearing at line 2 of the 2000 Official Edition of the General Laws of Massachusetts.

88 SECTION 5. If any one or more provision, section, sentence, clause, phrase or word of this Act or the
89 application thereof to any person or circumstance is found by a court to be unconstitutional or otherwise
90 unenforceable, the same is hereby declared to be severable and the balance of this Act shall remain
91 effective notwithstanding. The General Court hereby declares that it would have passed this Act, and each
92 provision, section, sentence, clause, phrase or word thereof, even if any one or more provision, section,
93 sentence, clause, phrase, or word would be found by a court to be unconstitutional or otherwise
94 unenforceable.

95 SECTION 6. This Act shall take effect immediately after its passage by the General Court and approval
96 by the Governor, or upon its otherwise becoming a law.