

HOUSE No. 2333

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake

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 to protect girls from genital mutilation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>William Crocker</i>	<i>2nd Barnstable</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>

<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>

<i>John J. Mahoney</i>	<i>13th Worcester</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Brendan P. Crighton</i>	<i>11th Essex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Chynah Tyler</i>	<i>7th Suffolk</i>
<i>Kate D. Campanale</i>	<i>17th Worcester</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Juana Matias</i>	<i>16th Essex</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Natalie Higgins</i>	<i>4th Worcester</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>

HOUSE No. 2333

By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 2333) of Sarah K. Peake and others relative to the penalties for the crime of female genital mutilation. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to protect girls from 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 2014 Official Edition,
2 is hereby amended by inserting after section 220 the following new section:-

3

4 Section 220A. (a) The commissioner shall develop and administer a program of
5 education, prevention and outreach for communities that commonly practice female genital
6 mutilation as defined in section 59 of chapter 265. The program shall be designed to inform
7 those communities about the health risks and emotional trauma inflicted by the practice of
8 female genital mutilation, as well as the criminal penalties for committing female genital
9 mutilation.

10 (b) The commissioner shall develop policies and procedures to promote partnerships
11 between the department, agencies and political subdivisions of the commonwealth such as the
12 Department of Elementary and Secondary Education, the Department of Children and Families,

13 the Executive Office of Public Safety and Security, and the Attorney General's Office, other
14 government entities and non-governmental organizations to prevent female genital mutilation
15 and to protect and provide assistance to victims of female genital mutilation.

16 (c) The commissioner shall make recommendations and develop procedures regarding
17 strategies and methodologies for training providers of health services on recognizing the risk
18 factors associated with female genital mutilation and the signs that an individual may be a victim
19 of female genital mutilation.

20 (d) The commissioner shall develop regulations to carry out this section and may, subject
21 to appropriation, contract with non-governmental organizations, entities or individuals with
22 experience working with victims of female genital mutilation to provide training and materials
23 and other services as the department deems necessary.

24

25 SECTION 2. Section 21 of chapter 119 of the General Laws, as appearing in the 2014
26 Official Edition, is hereby amended by inserting after the word "faculty", in line 81, the
27 following words:- ", including female genital mutilation, as defined in section 59 of chapter
28 265".

29 SECTION 3. Chapter 119 of the General Laws, as appearing in the 2014 Official Edition,
30 is hereby amended by inserting after section 39L the following section:-

31 Section 39M. (a) Notwithstanding any general or special law to the contrary, the
32 department of children and families, in collaboration with the department of mental health and
33 other appropriate state agencies, shall: (i) provide for the child welfare services needs of children

34 who have undergone or are at risk of female genital mutilation including, but not limited to,
35 services for victims of female genital mutilation residing in the commonwealth at the time they
36 are identified by the department as victims or at risk of female genital mutilation, for the duration
37 of any legal or administrative proceeding in which they are either the complaining witness,
38 defendant or the subject child; and (ii) provide appropriate services to a child reasonably
39 believed to be a victim of or at risk of female genital mutilation in order to safeguard the child's
40 welfare. If a child reasonably believed to be a victim of or at risk of female genital mutilation
41 declines services or is unable or unwilling to participate in the services offered, the department or
42 any person may file a care and protection petition under section 24 of this chapter. Child victims
43 of female genital mutilation or those at risk of female genital mutilation shall have access to an
44 advocate. The advocate or a member of the multidisciplinary service team established under
45 section 51D of this chapter shall accompany the child to all court appearances and may serve as a
46 liaison between the service providers and the court.

47 (b) The services that shall be provided under this section shall be available to all child
48 victims of female genital mutilation or those at risk of female genital mutilation, whether they
49 are accessed voluntarily, through a court proceeding under this section or through a referral,
50 which may be made by any person.

51 (c) The commissioner of the department may, subject to appropriation, contract with non-
52 governmental organizations or entities with experience working with victims of female genital
53 mutilation or those at risk of female genital mutilation to train law enforcement officials likely to
54 encounter victims of female genital mutilation in the course of their law enforcement duties. The
55 training shall include, but not be limited to, awareness and compliance with the provisions of this
56 section, identification of, access to, and the provision of services for victims of female genital

57 mutilation or those at risk of female genital mutilation and any other services the department
58 deems necessary.

59 (d) The department shall adopt regulations to carry out this section.

60 SECTION 4. Section 51A of chapter 119 of the General Laws, as appearing in the 2014
61 Official Edition, is hereby amended by striking out the first full paragraph of subsection (a), and
62 inserting in place thereof the following subsection:-

63 (a) A mandated reporter who, in his professional capacity, has reasonable cause to
64 believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted
65 upon him which causes harm or substantial risk of harm to the child's health or welfare,
66 including sexual abuse and/or female genital mutilation, or the substantial risk of female genital
67 mutilation, as defined in section 59 of chapter 265; (ii) neglect, including malnutrition; (iii)
68 physical dependence upon an addictive drug at birth; (iv) being a sexually exploited child; or (v)
69 being a human trafficking victim, as defined in section 20M of chapter 233, shall immediately
70 communicate with the department orally and, within 48 hours, shall file a written report with the
71 department detailing the suspected abuse or neglect.

72 SECTION 5. Section 51B of chapter 119 of the General Laws, as appearing in the 2014
73 Official Edition, is hereby amended by inserting after the word "authorities", in line 7, the
74 following words:- ", a child who is a victim of female genital mutilation, or is at substantial risk
75 of female genital mutilation, as defined in section 59 of chapter 265".

76 SECTION 6. Section 51D of said chapter 119 of the General Laws, as appearing in the
77 2014 Official Edition, is hereby amended by inserting after the seventh paragraph the following
78 paragraph:-

79 For 51A reports specifically involving a child who is a victim of female genital
80 mutilation, or is at substantial risk of female genital mutilation, as defined in section 59 of
81 chapter 265, the multi-disciplinary service team may consist of a team of professionals trained or
82 otherwise experienced and qualified to assess the needs of children who have undergone or are at
83 risk of female genital mutilation, including, but not limited to, a police officer, as defined by
84 section 1 of chapter 90C, or other person designated by a police chief, as defined in said section
85 1 of said chapter 90C, an employee of the department of children and families, a representative
86 of the appropriate district attorney, a social service provider, a medical professional or a mental
87 health professional. The purpose of said team shall be to determine whether the child is a victim
88 of, or is at substantial risk of, female genital mutilation and to recommend a plan for services to
89 the department that may include, but shall not be limited to, shelter or placement, mental health
90 and medical care needs and other social services.

91 SECTION 7. Chapter 260 of the General Laws, as appearing in the 2014 Official Edition,
92 is hereby amended by inserting after section 4D the following new section:-

93 Section 4E. (a) A victim of female genital mutilation as defined in section 59 of chapter
94 265 may bring a civil action in any court of competent jurisdiction for female genital mutilation.
95 The victim may bring said action regardless of where the alleged female genital mutilation
96 occurred. A court of the commonwealth may exercise jurisdiction over a defendant in such an
97 action on any basis not inconsistent with the Constitution of the commonwealth or of the United
98 States. The court may award actual damages, compensatory damages, punitive damages,
99 injunctive relief or any other appropriate relief. A prevailing plaintiff shall be awarded attorney's
100 fees and costs. Treble damages may be awarded on proof of actual damages if the defendant's

101 acts were willful and malicious. The doctrines of forum non conveniens and exhaustion of local
102 remedies shall not apply to claims arising under this section.

103

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

106 SECTION 8. Chapter 265 of the General Laws, as appearing in the 2014 Official Edition,
107 is hereby amended by adding the following section:-

108 Section 59. (a) As used in this section, the following words shall have the following
109 meanings:-

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

111

112 “Female genital mutilation” shall mean all procedures involving partial or total removal
113 of the female genitalia or other injury to the female genital organs, or any harmful procedure to
114 the female genitalia, including but not limited to clitoridectomy or the partial or total removal of
115 the clitoris or the prepuce, excision or the partial or total removal of the clitoris and the labia
116 minora, with or without excision of the labia majora, infibulation or the narrowing of the vaginal
117 orifice with the creation of a covering seal by cutting and appositioning the labia minora or the
118 labia majora, with or without excision of the clitoris, and all other actions intended to alter the
119 structure or function of the female genitalia for non-medical reasons, but excluding surgery
120 performed by a health care professional when necessary to preserve or protect the physical health
121 of the patient or for sex reassignment as requested by the patient.

122 “Health care professional”, shall mean a physician or other health care practitioner
123 licensed, accredited or certified in the commonwealth to perform specified health services.

124 (b) Whoever commits female genital mutilation on a child shall be guilty of the crime of
125 female genital mutilation and shall be punished by imprisonment for a term of not more than 10
126 years in state prison or not more than 2.5 years in a house of correction. The superior court and
127 the district court shall have concurrent jurisdiction.

128 (c) Whoever holds or takes a child in the commonwealth or holds or takes a child outside
129 the commonwealth to commit female genital mutilation or to permit another to commit female
130 genital mutilation upon the child shall be punished by imprisonment for a term of not more than
131 10 years in state prison or not more than 2.5 years in a house of correction. The superior court
132 and the district court shall have concurrent jurisdiction.

133 (d) Whoever, having care or custody of a child, wantonly or recklessly permits another to
134 commit female genital mutilation upon the child shall be punished by imprisonment for a term of
135 not more than 2.5 years in a house of correction.

136

137 (e) It shall not be a defense to a prosecution under this section that (i) the child or the
138 child’s guardian consented to the commission of female genital mutilation, or (ii) female genital
139 mutilation is a matter of custom, ritual or standard practice.

140 SECTION 9. Section 16D of chapter 278 of the General Laws, as so appearing, is hereby
141 amended by striking out, in lines 6 and 7, the words "or 50 of chapter two hundred and sixty-
142 five", and inserting in place thereof the following words:- ", 50 or 59 of chapter 265"