



LEGISLATIVE ANALYSIS OF **HB3320** AND **HB1102** “ROE” ACTS TO INCREASE ABORTION

Massachusetts Family Institute



The so-called “ROE Act” ([HB3320](#)) to increase abortions has recently been filed in the Massachusetts House.¹ The “ROE Act” is accompanied by additional legislation which would compel health insurance providers to cover and pay for abortions ([HB1102](#)), the so-called “health equity for pregnant persons” act. This analysis clarifies, section by section, with citations, what these bills do and do not do, first analyzing HB3320 and then HB1102. Any emphasis is added. Formatting may be slightly modified for clarity and comparison. Some citations are reproduced directly, with others paraphrased for the sake of brevity. For full text of all changes, click [here](#).

HB3320

SECTION 1

- A. **Redefines or eliminates key definitions in state law, including, “Abortion,” “Pregnancy,” and “Unborn child.”** (ln. 1-16)

SECTION 2

- B. **Insulates abortion businesses from oversight and regulation.** (ln. 20-23)
- C. **Allows abortions for any reason prior to 24 weeks – current law requires that an abortion at this stage be “necessary under all attendant circumstances.”** (ln. 24-27)
- D. **Eliminates any meaningful restrictions on abortions post 24-weeks** (ln. 27-33)
- E. **Eliminates punishment for violations; no waiting period shall be imposed.**
- F. **Physicians operating on a 24-week baby may now use procedures that intentionally kill the baby in utero.** (ln. 42-44)
- G. **Physicians are no longer required to save the life of a baby born during a post-24-week abortion.** (ln. 17-18)
- H. **Abortions at 13 weeks or more are no longer required to be performed in a hospital.** (ln. 17-18)
- I. **Safety and reporting requirements lowered or eliminated.** (ln. 17-18, 42-22)
- J. **Minors no longer need parental consent to have an abortion.** (ln. 17-18) (ln. 17-18)

SECTION 3 (See J. above)

SECTION 4

- K. **Adds free abortion coverage to MassHealth (Medicaid).** (ln. 47-52)

HB1102: Companion bill to compel health insurance to cover and pay for abortions.

¹ This analysis applies to HB3320 and HB1102. Duplicate bills were filed in the senate, currently [SB1209](#) and [SB587](#). [SB1335](#) also contains very similar language, but adds general prenatal care (instead of just abortion) to the insurance coverage as well as a mandate for sex ed and abortion/contraceptives for correctional facilities with female inmates.

SECTION 1 (ln. 1-16):

A. Redefines or eliminates key definitions in state law, including, “Abortion,” “Pregnancy,” and “Unborn child.” Proposed MGL ch.112 §12K (ln. 1-16)

This section strikes out MGL ch.112 §12K (“Definitions applicable to Secs. 12L to 12U”) thereby repealing definitions surrounding current law. This section leaves some definitions unchanged, but generally replaces the current definitions with language that sanitizes abortion and erases any reference to “unborn child.”

Definitions for “Hospital” and “Physician” are unchanged.

Current:	HB3320, §1:
Abortion: “the knowing destruction of the life of an unborn child or the intentional expulsion or removal of an unborn child from the womb other than for the principal purpose of producing a live birth or removing a dead fetus.”	(ln. 6) Abortion: “any medical treatment intended to induce the termination of a clinically diagnosable pregnancy except for the purpose of producing a live birth. The term abortion does not include miscarriage management.”
Pregnancy: “the condition of a mother carrying an unborn child. ”	(ln. 15) Pregnancy: “the presence of an implanted human embryo or fetus within a person’s uterus.”
Unborn child: “the individual human life in existence and developing from implantation of the embryo in the uterus until birth.”	No corresponding definition.

SECTION 2 (ln. 17-44): Repeals and replaces current Massachusetts abortion law.

This section completely repeals and replaces major portions of Massachusetts abortion laws – sections 12L through 12U are repealed and replaced with completely different language, as follows:

B. Insulates abortion businesses from oversight and regulation.
Proposed MGL ch.112 §12L (ln. 20-23)

Current:	HB3320, §2, ln. 20-23:
MGL ch.112 §12L: Prohibits ² abortion for pregnancies <i>before</i> 24 weeks, <i>except</i> if, "in the best medical judgment of a physician, the abortion is necessary under all attendant circumstances.”	Proposed MGL ch.112 §12L: “The Commonwealth shall not interfere with a person’s personal decision and ability to prevent, commence, terminate, or continue their own pregnancy consistent with this chapter. The Commonwealth shall not restrict the use of medically appropriate methods of abortion or the manner in which medically appropriate abortion is provided.”

² This standard (“necessary under all attendant circumstances”) does not truly “prohibit” pre-24-week abortions in any sense of the word, since thousands of abortions (over 18,000 in 2017) occur annually under this language. Under the proposed law, essentially this *same lose standard* would now apply to *post*-24-week unborn babies (See the proposed §12M below).

C. **Allows abortions for any reason prior to 24 weeks – current law requires that an abortion at this stage be “necessary under all attendant circumstances.”** Proposed ch.112 §12M (ln. 24-27)

Current:	HB3320, §2, ln. 24-27:
MGL ch.112 §12L: Prohibits abortion for pregnancies <i>before</i> 24 weeks, <i>except</i> if, "in the best medical judgment of a physician, the abortion is necessary under all attendant circumstances."	Proposed MGL ch.112 §12M: “A physician, acting within their lawful scope of practice, may perform an abortion when, according to the physician’s best medical judgment, the patient is within twenty-four weeks from the commencement of pregnancy, as defined in section 12K of this chapter.”

D. **Eliminates any meaningful restrictions on abortions post 24-weeks.**
Proposed MGL ch.112 §12M (ln. 27-33)

Current:	HB3320, §2, ln. 27-33:
MGL ch.112 §12M: Prohibits abortions at 24 weeks or later unless it is "necessary to save the life of the mother, or if a continuation of her pregnancy will impose on her a substantial risk of grave impairment of her physical or mental health."	Proposed MGL ch.112 §12M (cont’d.): At 24 weeks or later, the physician may perform an abortion when “according to the physician’s best medical judgement... abortion is necessary to protect the patient’s life or physical or mental health , [or] in cases of lethal fetal anomalies, or where the fetus is incompatible with sustained life outside the uterus. Medical judgment may be exercised in the light of all factors —physical, emotional, psychological, familial, and the person’s age—relevant to the well-being of the patient.”

E. **Eliminates punishment for violations; no waiting period shall be imposed.**
Proposed MGL ch.112 §12N (ln. 34-41)

Current:	HB3320, §2, ln. 34-41:
MGL ch.112 §§12N, 12T & 12U: Violations of 12L or 12M are crimes, carrying 1-5 years in jail. Violators may be punished under 12K to 12U.	Proposed MGL ch.112 §12N: Prior to an abortion, the physician shall obtain a confidential consent form from the patient, except in emergency. No waiting period shall be imposed. MGL ch.112 §§12T & 12U are stricken.

F. **Physicians operating on a 24-week baby may now use procedures that intentionally kill the baby in utero.**³ Proposed MGL ch.112 §12O (ln. 42-44)

Current:	HB3320, §2, ln. 42-44:
MGL ch.112 §12O: If an abortion is performed under 12M (i.e. 24 weeks or later), the "abortion" must not use a procedure that would kill the baby (absent harm to the life or future childbearing of the mother).	Proposed MGL ch.112 §12O: The Dept. of Health shall be allowed to require anonymized reports concerning abortions. (The language on preserving the life of the baby is entirely stricken.)

G. **Physicians are no longer required to save the life of a baby born during a post-24-week abortion.** (ln. 17-18)

Current:	HB3320, §2 ln. 17-18:
MGL ch.112 §12P: If an abortion is performed under 12M (i.e. 24 weeks or later), the physician must take reasonable steps, before and after (including life-support equipment), to preserve the life of the baby.	MGL ch.112 §12P is stricken.

H. **Abortions at 13 weeks or more are no longer required to be performed in a hospital.** (ln. 17-18)

Current:	HB3320, §2 ln. 17-18:
MGL ch.112 §12Q: "if the abortion is during or after the thirteenth week of pregnancy, it is performed in a hospital duly authorized to provide facilities for general surgery. Except in an emergency requiring immediate action, no abortion may be performed under section twelve M [i.e. 24 weeks or later] unless performed in a hospital duly authorized to provide facilities for obstetrical services. "	MGL ch.112 §12Q is stricken.

³ Currently, an abortion can be done on post-24-week babies, but the physician must take reasonable steps to save the life of the child, including life support equipment (unless doing so would endanger the life of the mother).

I. Safety and reporting requirements lowered or eliminated. (ln. 17-18, 42-22)

Current:	HB3320, §2 ln. 17-18, 42-44:
MGL ch.112 §12R: Extensive and detailed reporting requirements for abortion providers, as well as mandated blood/safety testing.	MGL ch.112 §12R is stricken. See proposed §12O above for the new reduced reporting requirements.

J. Minors no longer need parental consent to have an abortion. (ln. 17-18)

Current:	HB3320, §2 ln. 17-18:
MGL ch.112 §12S: Minors (under 18 y/o) must have either parental consent ⁴ or a court order to have an abortion.	MGL ch.112 §12S is stricken.

SECTION 3 (ln. 45-46):

This section strikes out the words “abortion or” from [MGL ch. 112, §12F](#) (“Emergency treatment of minors”) to ensure that minors can access abortions without parental consent.

Current:	HB3320, §3 ln. 45-46:
MGL ch.112 §12F: Any minor may give consent to his medical or dental care at the time such care is sought if... [enumerated exceptions, i.e. married, in the military, pregnant, living independently, etc.]. Consent shall not be granted under subparagraphs (ii) through (vi), inclusive, for abortion or sterilization.	Proposed MGL ch.112 §12F words “abortion or” are stricken.

SECTION 4

K. Adds free abortion coverage to MassHealth (Medicaid). (ln. 47-52)

This section adds abortion to the list of “medically necessary” pregnancy “care relative to pregnancy” for MassHealth medicaid (i.e. health insurance administered by the Division of Medical Assistance under MGL ch.118). Note that HB1102 (analyzed below) does the same and much more.

⁴ Current requirement is for only ONE PARENT to consent. Background: In 1997, this law was challenged in [Planned Parenthood of Massachusetts v. Attorney General](#), 424 Mass. 586 (1997). The MA Supreme Judicial Court held that the statutory requirement that a pregnant unmarried minor obtain consent of both parents before obtaining abortion violated the due process clause. The state currently can only require consent of **one parent**. “The requirement of G. L. c. 112, s. 12S, that an unmarried minor who seeks to terminate her pregnancy must obtain the consent of both her parents unconstitutionally burdens without sufficient justification the right of such a minor to choose an abortion, where the consent of one parent with a judicial authorization alternative adequately satisfies the State's interest in the protection of the welfare of minors.” Id at 595-599.

HB1102

This bill compels all health insurance contracts to completely cover 100% of the cost of abortion. This bill modifies the exact same sections of [2017 Bill H.4009](#) (now law), which had as its aim to require health insurance contracts to provide free birth control in the state of Massachusetts⁵. The following sections in HB1102 are modified:

- MGL ch. 32A §17C
- MGL ch. 118E §10A
- MGL ch. 175 §47F
- MGL ch. 176A §8H
- MGL ch. 176B §4H
- MGL ch. 176G, §4I

In brief, this bill is a sibling of HB3320: HB3320 protects abortion, insulates it from regulation, and allows abortion anytime during the pregnancy. HB1102, this bill, requires YOU to pay for it.

SECTION 1 & 2: (Ln. 1-11) These sections compel insurance providers under MGL ch. 32A §17C to provide **completely free coverage** (“not subject to any deductible, coinsurance, copayment or any other cost-sharing requirement”) for **abortion and abortion-related care** that does not impose “unreasonable restrictions or delays.”

[MGL ch. 32A](#) applies to insurance coverage for employees of the Commonwealth.

SECTION 3 & 4: (Ln. 12-25) These sections do the same as above (free abortion coverage) for MGL ch. 118E §10A.

[MGL ch. 118E](#) applies to insurance coverage for Masshealth (Medicaid) administered by the Department of Health’s Division of Medical Assistance.

SECTION 5 & 6: (Ln. 26-41) These sections do the same as above (free abortion coverage) for MGL ch. 175 §47F.

[MGL ch. 175 §47F](#) applies to any “blanket or general policy of insurance” or “or any policy of accident or sickness insurance,” except from Medicare or other government programs

This section contains a religious exemption for policies of accident and sickness purchased by an employer that is a “that is a church or qualified church-controlled organization, as defined in [section 47W](#)⁶ of this chapter,” so long as the provider invokes the exemption.

⁵https://www.masslive.com/politics/index.ssf/2017/11/massachusetts_gov_charlie_baker_signs_law_guaranteeing_birth_control_without_copays.html

⁶ i.e. the definition of “Church” or “Church-controlled organization” found in [26 U.S.C. section 3121\(w\)\(3\)\(A\) and \(B\)](#), as follows:

(A) For purposes of this subsection, the term “church” means a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

(B) For purposes of this subsection, the term “qualified church-controlled organization” means any church-controlled tax-exempt organization described in section 501(c)(3), other than an organization which—

SECTION 7, 8, & 9: (Ln. 42-61) These sections do the same as above (free abortion coverage) for MGL ch. 176A §8H.

[MGL ch. 176A](#) applies to non-profit hospital service plan that is made “between a subscriber and the corporation under an individual or group hospital service plan,” except Medicare or other government programs.

Section 8 (ln. 45) includes a provision that requires the plan to cover 100% of the costs of abortion, even if the rest of the plan does not cover 100% of other costs for medical payments not related to pregnancy.

This section contains the same religious exemption as described above in ch. 175 §47F.

SECTION 10, 11, & 12: (Ln. 62-80) These sections do the same as above (free abortion coverage) for MGL ch. 176B §4H.

[MGL ch. 176B §4H](#) applies to “any subscription certificate under an individual or group medical service agreement,” except Medicare or other government programs.

Section 11 (ln.65) includes a provision that requires the plan to cover 100% of the costs of abortion, even if the rest of the plan does not cover 100% of other costs for medical payments not related to pregnancy.

This section contains a religious exemption for policies of accident and sickness purchased by an employer that is a “that is a church or qualified church-controlled organization, as defined in [section 47W](#) of this chapter,” so long as the provider invokes the exemption.

SECTION 13 & 14: (Ln. 81-96) These sections do the same as above (free abortion coverage) for MGL ch. 176G, §4I.

[MGL ch. 176G, §4I](#) applies to “[a]ny health maintenance contract” as described in [MGL 176G §4](#).

This section contains a religious exemption for policies of accident and sickness purchased by an employer that is a “that is a church or qualified church-controlled organization, as defined in [section 47W](#) of this chapter,” so long as the provider invokes the exemption.

SECTION 15: (Ln. 97-99) states that this law will apply to insurance contracts 6 months from passage.

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- (i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and
 - (ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.



HB 3320 Line-by-line before and after text

SECTION 1

Section 12K. As used in section twelve L to section twelve U, inclusive, the following words shall have the following meanings:

~~Abortion, the knowing destruction of the life of an unborn child or the intentional expulsion or removal of an unborn child from the womb other than for the principal purpose of producing a live birth or removing a dead fetus.~~

Abortion, any medical treatment intended to induce the termination of a clinically diagnosable pregnancy except for the purpose of producing a live birth. The term abortion does not include miscarriage management.

Hospital, a hospital as defined in section fifty-two of chapter one hundred and eleven of the General Laws, and duly licensed under the provisions of section fifty-one of chapter one hundred and eleven of the General Laws. **Unchanged by HB 3320**

Physician, an individual lawfully authorized to practice medicine within the Commonwealth. **Unchanged by HB 3320**

~~Pregnancy, the condition of a mother carrying an unborn child.~~

Pregnancy, means the presence of an implanted human embryo or fetus within a person's uterus.

~~Unborn child, the individual human life in existence and developing from implantation of the embryo in the uterus until birth.~~

HB 3320 SECTION 2

~~Section 12L. If a pregnancy has existed for less than twenty-four weeks no abortion may be performed except by a physician and only if, in the best medical judgment of a physician, the abortion is necessary under all attendant circumstances.~~

The Commonwealth shall not interfere with a person's personal decision and ability to prevent, commence, terminate, or continue their own pregnancy consistent with this chapter. The Commonwealth shall not restrict the use of medically appropriate methods of abortion or the manner in which medically appropriate abortion is provided.

~~Section 12M. If a pregnancy has existed for twenty-four weeks or more, no abortion may be performed except by a physician and only if it is necessary to save the life of the mother, or if a continuation of her pregnancy will impose on her a substantial risk of grave impairment of her physical or mental health.~~

A physician, acting within their lawful scope of practice, may perform an abortion when, according to the physician's best medical judgment, the patient is within twenty-four weeks from the commencement of pregnancy, as defined in section 12K of this chapter. A physician, acting within their lawful scope of practice, may perform an abortion when, according to the physician's best medical judgment based on the facts of the patient's case, the patient is beyond twenty-four weeks from the commencement of pregnancy and the abortion is necessary to protect the patient's life or physical or mental health, or in cases of lethal fetal anomalies, or where the fetus is incompatible with sustained life outside the uterus. Medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the person's age—relevant to the well-being of the patient.

~~Section 12N. Any person who violates the provisions of sections twelve L or twelve M shall be punished by imprisonment for not less than one year nor more than five years. Conduct which violates the provisions of this act, which also violates any other criminal laws of the commonwealth, may be punished either under the provisions of sections 12K to 12U, inclusive, or under such other applicable criminal laws.~~

Prior to performing an abortion, a physician shall obtain the pregnant patient's written informed consent on a form prescribed by the Commissioner of Public Health. A pregnant person seeking an abortion shall sign the consent form before the abortion is performed, except in an emergency requiring immediate action. The consent form and any other forms shall be confidential and may not be released to any person other than to the pregnant person to whom such documents relate or the operating physician, except by the pregnant patient's written consent; provided, however, that this requirement shall not impose any waiting period between the signing of the consent form and the performance of the abortion.

~~Section 12O. If an abortion is performed pursuant to section twelve M, no abortion procedure which is designed to destroy the life of the unborn child or injure the unborn child in its mother's womb may be used unless, in the physician's best medical judgment, all other available procedures would create a greater risk of death or serious bodily harm to the mother either at the time of the abortion, or subsequently as the result of a future pregnancy, than the one being used.~~

The department of public health shall have the authority to require aggregate reports regarding induced termination of pregnancy pursuant to sections twenty-four A and twenty-five A of chapter one hundred and eleven.

~~Section 12P. If an abortion is performed pursuant to section twelve M, the physician performing the abortion shall take all reasonable steps, both during and subsequent to the abortion, in keeping with good medical practice, consistent with the procedure being used, to preserve the life and health of the aborted child. Such steps shall include the presence of life-supporting equipment, as defined by the department of public health, in the room where the abortion is to be performed.~~

~~Section 12Q. Except in an emergency requiring immediate action, no abortion may be performed under sections twelve L or twelve M unless the written informed consent of the proper person or persons has been delivered to the physician performing the abortion as set forth in section twelve S; and if the abortion is during or after the thirteenth week of pregnancy, it is performed in a hospital duly authorized to provide facilities for general surgery.~~

~~Except in an emergency requiring immediate action, no abortion may be performed under section twelve M unless performed in a hospital duly authorized to provide facilities for obstetrical services.~~

~~Section 12R. If the physician performing the abortion is not the physician who made the medical judgment required by section twelve M, before performing the abortion he shall obtain from the physician making such judgment a written statement setting forth the exception contained in section twelve M that in his best medical judgment permits the abortion and the specified reasons why the abortion qualifies under that exception. Prior to the performance of an abortion, the physician shall make a positive determination of pregnancy, test for blood type and Rh type, test for Rho(D) sensitization on each patient found to be Rho(D) negative by use of an antiglobulin (Coombs) test performed by a blood bank operated by a licensed hospital, or by a laboratory, and offer Rho(D) immune globulin (Human) to each Rho(D) negative patient with a negative sensitization test at the time of any abortion. The physician performing the abortion shall retain this written statement as an attachment to the file copy of his report required by this section. Within thirty days after the performance of an abortion, the physician performing such abortion shall file with the commissioner of public health on a form prescribed by him the following information to the best of his knowledge: the date and place of the abortion; if he was the physician making the medical judgment required by section twelve M, the exception contained in said section that in his best medical judgment permitted the abortion and the specific reasons why the abortion qualified under that exception; if he is not the physician who made such medical judgment, the name and address of the physician from whom he received the written statement required by this section and the exception contained in said section twelve M that permitted the abortion and a verbatim recitation of the specific reasons why the abortion qualified under either exception as set forth in the written statement he received from such physician; the age of the mother; the method used to perform the abortion; whether the mother survived the abortion; the details of any morbidity observed in the mother; the gestational age of the child; the weight and crown-rump length of the child if determinable; whether the unborn child was alive when removed or expelled from the mother and if so, the steps taken to preserve its life; and the length of time the child lived after removal or expulsion from the mother. The physician performing the abortion shall retain in his files for seven years after the abortion a copy of the report to which he should attach or otherwise add the name of the mother. The original of the report filed with the commissioner shall not contain the name of the mother and shall be maintained by the commissioner as a public record. The commissioner shall prepare from these reports~~

~~such statistical tables with respect to maternal health, abortion procedures, the unborn child and viability as he deems useful and shall make an annual report thereof to the general court. Nothing in this section shall be construed to limit the authority of the department of public health to require reports pursuant to sections twenty four A and twenty five A of chapter one hundred and eleven.~~

~~Section 12S. No physician may perform an abortion upon a pregnant woman without first obtaining her written informed consent. The commissioner of public health shall prescribe a form for physicians to use in obtaining such consent. This form shall be written in a manner designed to permit a person unfamiliar with medical terminology to understand its purpose and content, and shall include the following information: a description of the stage of development of the unborn child; the type of procedure which the physician intends to use to perform the abortion; and the possible complications associated with the use of the procedure and with the performance of the abortion itself; the availability of alternatives to abortion; and a statement that, under the law of the commonwealth, a person's refusal to undergo an abortion does not constitute grounds for the denial of public assistance. A pregnant woman seeking an abortion shall sign the consent form described above at least twenty four hours in advance of the time for which the abortion is scheduled, except in an emergency requiring immediate action. She shall then return it to the physician performing the abortion who shall maintain it in his files and destroy it seven years after the date upon which the abortion is performed.~~

~~The said consent form and any other forms, transcript of evidence, or written findings and conclusions of a court, shall be confidential and may not be released to any person except by the pregnant woman's written informed consent or by a proper judicial order, other than to the pregnant woman herself, to whom such documents relate, the operating physician, or any person whose consent is required pursuant to this section, or under the law. If a pregnant woman is less than eighteen years of age and has not married, a physician shall not perform an abortion upon her unless he first obtains both the consent of the pregnant woman and that of her parents, except as hereinafter provided. In deciding whether to grant such consent, a pregnant woman's parents shall consider only their child's best interests. If one of the pregnant woman's parents has died or is unavailable to the physician within a reasonable time and in a reasonable manner, consent of the remaining parent shall be sufficient. If both parents have died or are otherwise unavailable to the physician within a reasonable time and in a reasonable manner, consent of the pregnant woman's guardian or guardians shall be sufficient. If the pregnant woman's parents are divorced, consent of the parent having custody shall be sufficient. If a pregnant woman less than eighteen years of age has not married and if one or both of her parents or guardians refuse to consent to the performance of an abortion, or if she elects not to seek the consent of one or both of her parents or guardians, a judge of the superior court department of the trial court shall, upon petition, or motion, and after an appropriate hearing, authorize a physician to perform the abortion if said judge determines that the pregnant woman is mature and capable of giving informed consent to the proposed abortion or, if said judge determines that she is not mature, that the performance of an abortion upon her would be in her best interests. A pregnant woman less than eighteen years of age may participate in proceedings in the superior court department of the trial court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court appointed counsel, and shall, upon her request, provide her with such counsel. Proceedings in the superior court department of the trial court under this section shall be confidential and shall be given such precedence over other pending matters that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant woman. A judge of the superior court department of the trial court who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting his decision and shall order a record of the evidence to be maintained including his own findings and conclusions.~~

~~Nothing in this section is intended to abolish or limit any common law rights of persons other than those whose rights it governs for the purpose of any civil action or any action for injunctive relief under section twelve U.~~

~~Section 12T. Any person who commits an act in violation of sections twelve O or twelve P shall be punished by a fine of not less than five hundred dollars nor more than two thousand dollars, or by imprisonment of not less than three months nor more than five years, or by both said fine and imprisonment. Conduct which violates sections twelve O or twelve P which also violates any other criminal laws of the commonwealth, may be punished either under this section or under such other applicable criminal laws. Any person who willfully violates the provisions of section twelve Q or twelve R shall be punished by a fine of not less than one hundred dollars nor more than two thousand dollars.~~

~~Section 12U. The attorney general or any person whose consent is required either pursuant to section twelve S or under common law, may petition the superior court for an order enjoining the performance of any abortion that may be performed contrary to the provisions of sections twelve L to twelve T, inclusive.~~

HB 3320 SECTION 3. Section 12F of Chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line XXX, the words “abortion or”.

Section 12F. No physician, dentist or hospital shall be held liable for damages for failure to obtain consent of a parent, legal guardian, or other person having custody or control of a minor child, or of the spouse of a patient, to emergency examination and treatment, including blood transfusions, when delay in treatment will endanger the life, limb, or mental well-being of the patient.

Any minor may give consent to his medical or dental care at the time such care is sought if (i) he is married, widowed, divorced; or (ii) he is the parent of a child, in which case he may also give consent to medical or dental care of the child; or (iii) he is a member of any of the armed forces; or (iv) she is pregnant or believes herself to be pregnant; or (v) he is living separate and apart from his parent or legal guardian, and is managing his own financial affairs; or (vi) he reasonably believes himself to be suffering from or to have come in contact with any disease defined as dangerous to the public health pursuant to section six of chapter one hundred and eleven; provided, however, that such minor may only consent to care which relates to the diagnosis or treatment of such disease.

Consent shall not be granted under subparagraphs (ii) through (vi), inclusive, for ~~abortion or~~ sterilization.

Consent given under this section shall not be subject to later disaffirmance because of minority. The consent of the parent or legal guardian shall not be required to authorize such care and, notwithstanding any other provisions of law, such parent or legal guardian shall not be liable for the payment for any care rendered pursuant to this section unless such parent or legal guardian has expressly agreed to pay for such care.

No physician or dentist, nor any hospital, clinic or infirmary shall be liable, civilly and criminally, for not obtaining the consent of the parent or legal guardian to render medical or dental care to a minor, if, at the time such care was rendered, such person or facility: (i) relied in good faith upon the representations of such minor that he is legally able to consent to such treatment under this section; or (ii) relied in good faith upon the representations of such minor that he is over eighteen years of age.

All information and records kept in connection with the medical or dental care of a minor who consents thereto in accordance with this section shall be confidential between the minor and the physician or dentist, and shall not be released except upon the written consent of the minor or a proper judicial order. When the physician or dentist attending a minor reasonably believes the condition of said minor to be so serious that his life or limb is endangered, the physician or dentist shall notify the parents, legal guardian or foster parents of said condition and shall inform the minor of said notification.

HB 3320 SECTION 4

MGL c. 118E, s. 10E Healthy start program; medical assistance for pregnant women and infants; eligibility; types of assistance; protection from billing and collection practices

Section 10E. The division shall establish a program of medical care and assistance for pregnant women and infants who are not otherwise eligible for medical assistance under chapter 118E and who lack private health insurance coverage or have health insurance coverage which does not cover all medically necessary care covered by the program established by this section. The division shall furnish such medical assistance to each such pregnant woman and infant residing in the commonwealth in accordance with standards of eligibility established by the division; provided, however, that the income eligibility standards shall not be more than 200 per cent of the non-farm income poverty guidelines defined by the United States Office of Management and Budget.

Assistance furnished pursuant to this section shall include, but shall not be limited to, the following care and services; provided, however, that unless otherwise specified to the contrary no payment shall be allowed for inpatient hospitalization:

- (i) all medically necessary care **relative to pregnancy, including but not limited to abortion, care** to maintain health during the course of the pregnancy and delivery, including newborn hospital care;
- (ii) all medically necessary postpartum obstetric and gynecological care;
- (iii) newborn care, including one postpartum pediatric ambulatory visit; and

(iv) outreach services designed to identify and encourage the participation of pregnant women and infants in this program.

The division shall ensure that all women who appear to be eligible for medical assistance under said chapter 118E are assisted in enrolling for such coverage.

The division shall promulgate and, from time to time, amend regulations detailing eligibility criteria, services to be covered in conformity with appropriate standards of care, and reimbursement policies.

Notwithstanding section 3 of chapter 6B or any other law to the contrary, no acute hospital shall deny access to care and services to recipients of the healthy start program established by this section; provided, however, that such recipients shall be exempt from any collection action, pre-admission deposit or any other form of billing or collection procedures arising from treatment by an acute care hospital provided under the healthy start program; and provided further, that a healthy start card shall constitute sole verification of application and eligibility for free care for inpatient hospital services. The program established herein shall be known as the healthy start program.