



S2260 - An Act negating archaic statutes targeting young women

- **President Trump has promised to only nominate judges to the U.S. Supreme Court who would gut *Roe v. Wade* and criminalize abortion.** Justice Kennedy's retirement gives President Trump the opportunity to nominate a second judge to the Supreme Court who meets this litmus test. The lawsuits necessary to overturn *Roe* are already moving through the lower courts, and it's clear that the federal protections for abortion are in serious jeopardy. **Massachusetts has several archaic statutes that criminalize abortion, limit access to birth control or contraception, and more – several of which could be enforceable when *Roe* is gutted and overturned.**
- This bill, also known as the NASTY Women Act, has unanimously passed the Senate and is now in the House Committee on Ways and Means.
- S. 2260, formerly S. 784, filed by Senate President Chandler, would remove a number of archaic laws from the Massachusetts General Laws.
 - Most of these laws date back to the 1800s and several have been invalidated by state and federal court decisions; they have no relationship to modern life.
- The laws this bill would eliminate include:
 - **A ban on unmarried people accessing contraception.**
 - In *Eisenstadt v. Baird*, 405 U.S. 438 (1972) the Supreme Court ruled that the constitutional right to privacy extends to the reproductive decisions of unmarried people. This bill would strike the word 'married' from the law each time it appears, protecting access to birth control for all who seek it.
 - **A ban on distributing information about how to access contraception or abortion care.**
 - Women have a right to access information about reproductive health care options. This is an antiquated law that has no relevance to modern life.
 - **A law which would punish pharmacists, doctors, and other healthcare providers for distributing contraception or performing an abortion.**
 - Massachusetts recently passed the ACCESS bill, which guarantees copay free contraception. Therefore, it is absurd that a portion of the Massachusetts General Laws criminalized the distribution of contraception.
 - **A law that creates a five year mandatory minimum sentence for “Procuring a miscarriage”, which was aimed at criminalizing clinicians who provide abortion care.**
 - The decision in *Moe v. Sec. of Admin. and Finance*, 382 Mass. 629 (1981) has language indicating that the Massachusetts Supreme Judicial Court would find that the Massachusetts Constitution protects the right to choose.

However, *Moe* did not explicitly find that the right to choose is protected under our constitution. In this political environment, we must be prepared for the possibility of *Roe v. Wade* 410 U.S. 113 (1973) falling, and we need to make sure our statutes *guarantee* that there will be no interruptions to women's access to the full spectrum of reproductive health care in Massachusetts.

- **A requirement that all abortions provided from the thirteenth week of pregnancy onward be performed in a hospital.**
 - The Massachusetts Appeals Court has refused to enforce this law in light of U.S. Supreme Court's ruling in *Akron v. Akron Center for Reproductive Health*, 62 U.S. 416 (1983) which found similar mandates unconstitutional.
 - There is no medical justification for this requirement. Therefore, it would not make women seeking abortions any safer - all it would do is make it harder for women to get the health care they need.
 - Abortion is one of the safest medical procedures, with a lower complication rate than wisdom teeth or tonsil removal¹
- **A ban on adultery.**
- **A ban on fornication.**

Note: H. 954, An Act updating laws to protect women's health, filed by Representatives Rushing and Day, is substantially similar to S2260.

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¹https://journals.lww.com/greenjournal/Citation/2015/01000/Incidence_of_Emergency_Department_Visits_and.29.aspx