

JURISDICTION

The court of appeals entered its judgment on January 9, 2013. Pet. App. 1a. The petition for a writ of certiorari was filed on March 25, 2013, and granted on June 24, 2013. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Relevant constitutional and statutory provisions are reprinted at Pet. App. 219a-221a. The most relevant portion of chapter 266, Section 120E½ of the Massachusetts General Laws provides:

(a) For the purposes of this section, “reproductive health care facility” means a place, other than within or upon the grounds of a hospital, where abortions are offered or performed.

(b) No person shall knowingly enter or remain on a public way or sidewalk adjacent to a reproductive health care facility within a radius of 35 feet of any portion of an entrance, exit or driveway of a reproductive health care facility or within the area within a rectangle created by extending the outside boundaries of any entrance, exit or driveway of a reproductive health care facility in straight lines to the point where such lines intersect the sideline of the street in front of such entrance, exit or driveway. This subsection shall not apply to the following:—

- (1) persons entering or leaving such facility;
- (2) employees or agents of such facility acting within the scope of their employment;

(3) law enforcement, ambulance, fire-fighting, construction, utilities, public works and other municipal agents acting within the scope of their employment; and

(4) persons using the public sidewalk or street right-of-way adjacent to such facility solely for the purpose of reaching a destination other than such facility.

(c) The provisions of subsection (b) shall only take effect during a facility's business hours and if the area contained within the radius and rectangle described in said subsection (b) is clearly marked and posted.

(d) Whoever knowingly violates this section shall be punished, for the first offense, by a fine of not more than \$500 or not more than three months in a jail or house of correction, or by both such fine and imprisonment, and for each subsequent offense, by a fine of not less than \$500 and not more than \$5,000 or not more than two and one-half years in a jail or house of correction, or both such fine and imprisonment.

STATEMENT

Petitioners seek to reach women who may be contemplating abortion, in order to offer them information about, and assistance in pursuing, other options. Eleanor McCullen, for example, is a 76-year-old grandmother who aims to stand on public sidewalks near abortion clinics in order to reach this unique audience, at a unique moment, in a compassionate and non-confrontational way. Over the years, hundreds of women have accepted such offers of help from McCullen and the other petitioners.