

HOUSE No. 1586

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey N. Roy

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 concerning electronic publication of certain legal notices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Brian R. Mannel</i>	<i>2nd Barnstable</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>

HOUSE No. 1586

By Mr. Roy of Franklin, a petition (accompanied by bill, House, No. 1586) of Jeffrey N. Roy and others relative to the electronic publication of certain legal notices by government entities. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act concerning electronic publication of certain legal notices.

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 66 of the General Laws is amended by adding Paragraphs 2
2 through 6 of this act as a new Section 6A.

3 SECTION 2. This act shall be known and may be cited as the "Electronic
4 Publication of Legal Notices Act."

5 SECTION 3. For the purposes of this act:

6 "Electronic publication" or "electronically publish" means the public advertisement of
7 a legal notice in hypertext markup language format (html), portable document format (PDF) or
8 an equivalent language format or image format, on an official government Internet website.

9 "Government agency" or "agency" means any public entity under the laws of the
10 Commonwealth of Massachusetts required to publish legal notices.

11 "Legal notice" or "notice" means any matter of a government agency or an individual
12 that, pursuant to law, rule or regulation is required to be officially advertised in a newspaper.

13 "Notice website" means an Internet website that is maintained by a government
14 agency, or by a third party under contract with the agency, that contains links to the legal notices
15 electronically published by the agency.

16 "Official Internet website" or "official website" means the Internet location designated
17 by a government agency as its primary source of information about the agency on the Internet.

18 SECTION 4. Whenever a government agency or an individual is required by law to
19 publish a legal notice in a “newspaper” or “newspaper of general circulation”, the government
20 agency or individual may cause the required notice to be published on an official government
21 notice website instead of a newspaper, provided all of the following requirements are met:

22 a. The site is accessible to the public over the Internet at least ninety percent
23 (90%) of the time, twenty-four (24) hours per day, every day of a year; and

24 b. The government entity’s official Internet web site shall prominently display a
25 link to the notice web site, which shall be an index web page containing a list of all current legal
26 notices of the government entity, with links to the full text of those notices, not just to summaries
27 of those notices. The index web page shall also contain a search function and other features that
28 improve public accessibility to legal notices; and

29 c. The government agency's official Internet website, the notice webpage containing links
30 to the legal notices, and the webpages containing the actual legal notices, shall be designed to
31 comply with the accessibility standards of section 508 of the "Rehabilitation Act of 1973," as
32 amended (29 U.S.C. s.794d); and

33 d. The government agency's official Internet website containing the notice
34 website shall be registered with the Information Technology Division of the Executive Office for
35 Administration and Finance, for posting on the Commonwealth’s Internet website that lists
36 Internet sites of agencies; and

37 e. Each webpage on the official website with a link to the notice website or
38 index webpage, as well as the notice website itself, shall contain an e-mail link to submit a
39 complaint to the government agency if access to any legal notice fails. The government agency
40 shall review all complaints reported pursuant to this subsection to determine the cause of any
41 access problem and shall document the findings and any action taken to resolve it. The
42 government agency shall keep and make available for public inspection all records of complaints
43 and service accessibility failures reported pursuant to this subsection.

44 f. Whenever an individual is unable to access an electronic publication of a
45 government notice, the government agency shall provide a copy of the notice to the individual
46 free of charge.

47 g. Notices shall remain available on the notice website at least until the last
48 posting date required by law has expired or until the event described in a notice has taken place,
49 whichever is later.

50 h. The government agency shall create, or have provided by the notice website
51 contractor, and keep on file an electronic or paper based certification or affidavit of posting
52 required for each legal notice in the same manner as is done for printed notices. The affidavit or

53 certification shall state that the notice was posted from the initial date through either the last
54 posting date required by law or the date when the event described in a notice takes place,
55 whichever occurs later, except that a certification shall not be required to be notarized. The
56 government agency shall provide a copy of the certification or affidavit free of charge upon
57 request; and

58 i. The government agency shall designate one or more contact persons to handle
59 the intake and processing of legal notices requested to be published by an individual, concerning
60 the Internet publication of legal notices required to be published by an individual.

61 j. The government agency shall designate an official to be responsible for
62 electronic publications and shall post that official's name and contact information on the notice
63 website.

64 SECTION 5. Proof of publication of an electronically published legal notice for
65 the purpose of complying with public notice requirements shall be satisfied and deemed
66 conclusive upon the provision of the certification or affidavit described in subsection 4(h) by the
67 official responsible for the electronic publication, stating that the notice was posted from the
68 initial date until the last posting date required by law.

69 SECTION 6. A local government agency may elect to electronically publish
70 legal notices on a notice website in accordance with section 4 provided:

71 a. The local government agency annually adopts a resolution or an ordinance,
72 as appropriate, authorizing the publication of legal notices via the Internet and publishes a legal
73 advertisement following the adoption of the resolution or ordinance, which includes the full text
74 of the resolution or ordinance authorizing Internet publication, in one or more official newspaper
75 having the highest circulation within the jurisdiction of the local government agency, announcing
76 that legal notices are posted on the agency's notice website, in the following form:

77 "Internet Posting of Public Notices: (name of local government agency)

78 The (name of agency) announces that public notices on the following matters are posted
79 on the (name of agency) public notice website: http://www._____
80 (substitute Internet address protocol in common usage if different);"

81 b. The legal advertisement required under paragraph (1) of this subsection shall
82 close with the following:

83 (1) Free public access to the Internet is available within the (insert name of county,
84 municipality or service or jurisdictional area of the local government agency) at (list all known
85 locations). If someone is unable to access the Internet, individual copies of notices can be
86 obtained by calling (insert appropriate agency phone number); and

87 (2) Dial up access to the Internet is available without telephone toll charges generally
88 throughout the jurisdiction of the local government agency; and regular public Internet access is
89 available without charge within the jurisdiction of the local government agency through the
90 public library or at some other location; and

91 (3) The local government agency adopts a resolution at the annual meeting at which the
92 official newspaper is designated, if applicable, to provide for electronic publication of legal
93 notices on a notice website; and

94 (4) the local government agency publishes a legal advertisement once a week in one or
95 more official newspapers having the highest circulation within the jurisdiction of the local
96 government agency, announcing that legal notices are posted on the agency's notice website, in
97 the following form:

98 "Internet Posting of Public Notices: (name of local government agency)

99 "The (name of agency) announces that public notices on the following matters are posted
100 on the (name of agency) public notice website: http://www._____
101 (substitute Internet address protocol in common usage if different);"

102 c. All local government notices electronically published are available in printed
103 form in the office of the clerk; and when a municipality does not have an official website, the
104 municipal legal notices shall be published on the existing official website of the county in which
105 the municipality is located.

106 d. Any local government agency which elects to electronically publish legal
107 notices on a notice website must publish, notice of any public meeting, the minutes of any
108 meeting of the governing body, the full text of any proposed ordinance or resolution to be
109 considered by the governing body, the municipal code, all public contracts for goods or services,
110 and a summary of the results of any litigation involving the local government agency, provided
111 that the posting of the litigation information does not violate any agreed to or court ordered
112 confidentiality provisions.