

HOUSE No. 01736

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F. D. Cabral

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 to enhance access to electronic public records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>John P. Fresolo</i>	<i>16th Worcester</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Alice K. Wolf</i>	<i>25th Middlesex</i>
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>William N. Brownsberger</i>	<i>24th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>

<i>Angelo D'Emilia</i>	<i>8th Plymouth</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Gailanne Cariddi</i>	<i>1st Berkshire</i>
<i>Stephen Stat Smith</i>	<i>28th Middlesex</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>

HOUSE No. 01736

By Mr. Antonio F. D. Cabral of New Bedford, petition (accompanied by bill, House, No. 01736) of Denise Provost and others relative to the enhancement of access to electronic public records. Joint Committee on State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to enhance access to electronic public records.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Be it enacted by the Senate and House of Representatives in General Court assembled, and by
- 2 the authority of the same, as follows:
- 3 SECTION 1. Clause Twenty-sixth of Section 7 of Chapter 4 of the General Laws, as appearing
- 4 in the 2008 Official Edition, is hereby amended by inserting after the word “characteristics,” the
- 5 following words:--
- 6 including public record information which may be separately retrieved from an electronic record,
- 7 SECTION 2. Chapter 66 of the General Laws as so appearing is hereby amended by inserting
- 8 after Section 3 the following new section:--
- 9 Section 3A. When designing or acquiring an electronic recordkeeping system or database, any
- 10 person having custody of a public record shall ensure that such system or database is capable of

11 providing data in a common format such as, but not limited to, the American Standard Code for
12 Information Interchange or the Uniform Character Set Transformation Format. When records
13 maintained electronically include both public record information and exempt information that
14 may be withheld from public inspection, the custodian shall design its information storage and
15 retrieval methods in a manner that permits the segregation and retrieval of public record
16 information in order to provide maximum public access. No custodian of a public record may
17 enter into a contract for the storage of electronic records containing public record information
18 that impairs or restricts public access to those records.

19 SECTION 3. Section 10 of Chapter 66 of the General Laws as so appearing is hereby amended
20 by inserting after the word “record,” in line 4, the following:--

21 including public record information which may be separately retrieved from an electronic record,

22 SECTION 4. Section 10 of Chapter 66 of the General Laws is hereby further amended by
23 inserting at the end thereof the following paragraph:--

24 (e) If a public record or public record information is available in electronic form, the custodian
25 shall, at the option of the requester, provide it in that form. In making a record available to a
26 requestor, the custodian shall provide the record in any format requested if the record is readily
27 reproducible in that format. If a request does not specify the format for producing electronically
28 stored information, the custodian shall provide the record information in a common format that is
29 reasonably usable. For public records in electronic form, a custodian may charge the requestor
30 only the actual cost of any storage devices or materials provided to the requestor. When the
31 custodian’s information technology capabilities are inadequate to prepare a copy of the record,
32 the custodian may charge the requestor the actual cost of engaging an outside service to prepare a

33 copy, provided that no fee shall be charged in excess of the hourly salary attributed to the lowest
34 paid state employee who has the necessary skill required to prepare such a copy. Any
35 programming necessary to retrieve a public record or public record information and provide the
36 record or record information in the requested format, or to allow the record or record information
37 to be read or printed, shall not be deemed to be the preparation or creation of a new record.

38 SECTION 5. Chapter 66 of the General Laws as so appearing is hereby amended by inserting
39 after Section 10 the following new section:--

40 Section 10A. (a) Every state agency, as defined by Chapter 66A, that has the ability to provide
41 public internet access, at no charge, to a public record in its custody, shall make reasonable
42 efforts to do so. A custodian state agency shall be required to provide public internet access, at
43 no charge, to the following types of public records in searchable format: (i) final opinions,
44 decisions, orders, or votes from agency proceedings; (ii) annual reports; (iii) reports to the
45 General Court; (iv) notices of regulations proposed under chapter 30A; (v) notices of hearings;
46 (vi) winning bids for public contracts; and (vii) any public record information of significant
47 interest to the general public including, but not limited to, public record information which is the
48 subject of multiple public records requests.

49 (b) Every state agency shall prepare and maintain reference materials to enhance access to
50 public records in its custody and enable requestors to make informed requests, including: (i) a
51 reasonably detailed document classification scheme, to be updated annually, outlining categories
52 of records maintained by the agency, whether or not open for public inspection,; and (ii) an index
53 and description of all major databases, document management applications, and electronic
54 recordkeeping and locator systems maintained by the agency, including an indication of which

55 records are publicly accessible, at no charge, on the internet. Each state agency that maintains a
56 website shall post such reference materials on its website.

57 (c) The secretary of each executive office shall, on or before January 1, 2012, promulgate
58 rules and regulations to carry out the purposes of this act which shall be applicable to all
59 agencies, departments, boards, commissions, authorities, and instrumentalities within each of
60 said executive offices subject to the approval of the secretary of administration and finance, in
61 consultation with the chief information officer of the commonwealth. Any agency not within any
62 such executive office shall be subject to the regulations of the secretary of administration and
63 finance. The attorney general, the state secretary, the state treasurer and the state auditor shall
64 adopt applicable regulations for their respective departments on or before January 1, 2012.