

**SENATE . . . . . No. 00703**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Cynthia S. Creem*

*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 further defining the dissemination of obscene material.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>

**SENATE . . . . . No. 00703**

By Ms. Creem, petition (accompanied by bill, Senate, No. 703) of Flanagan, Atkins, Timilty and other members of the General Court for legislation to further define the dissemination of obscene material [Joint Committee on the Judiciary].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act further defining the dissemination of obscene material.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for the immediate protection of minors, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

□

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. Section 28 of Chapter 272 of the General Laws, as appearing in the 2008  
2 Official Edition, is hereby amended by striking the section in its entirety and replacing it with the  
3 following:-

4 Section 28. Whoever purposefully disseminates to a person or persons he knows or  
5 believes to be a minor or minors any matter harmful to minors, as defined in section thirty-one,  
6 knowing it to be harmful to minors, and/or has in his possession any such matter with the intent  
7 to disseminate the same to a person or persons he knows or believes to be a minor or minors,

8 shall be punished by imprisonment in the state prison for not more than five years or in a jail or  
9 house of correction for not more than two and one-half years, or by a fine of not less than one  
10 thousand nor more than ten thousand dollars for the first offense, not less than five thousand nor  
11 more than twenty thousand dollars for the second offense, or not less than ten thousand nor more  
12 than thirty thousand dollars for the third and subsequent offenses, or by both such fine and  
13 imprisonment. A person who disseminates an electronic communication, or possesses an  
14 electronic communication with the intent to disseminate it, does not violate this section unless he  
15 specifically intends to direct the communication to a person or persons he knows or believes to  
16 be a minor or minors. A prosecution commenced under this section shall not be continued  
17 without a finding nor placed on file. It shall be a defense in any prosecution under this section  
18 that the defendant was in a parental or guardianship relationship with the minor. It shall also be a  
19 defense in any prosecution under this section if the evidence proves that the defendant was a  
20 bona fide school, museum or library, or was acting in the course of his employment as an  
21 employee of such organization or of a retail outlet affiliated with and serving the educational  
22 purpose of such organization.