

SENATE No. 734

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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 adoption of the accompanying bill:

An Act to protect freedom of speech and association.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Harriette L. Chandler</i>	<i>First Worcester</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>

SENATE No. 734

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 734) of Harriette L. Chandler, Michael J. Barrett, David M. Rogers and Timothy J. Toomey, Jr. for legislation relative to freedom of speech and association. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 642 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to protect freedom of speech and association.

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 1 of Chapter 66A of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out the definition of “Personal data”, at lines 32
3 through 39, and inserting the following definitions:--

4 “Commonwealth Fusion Center”, that entity established by Executive Order 476 within
5 the executive office of public safety and security, or any successor entity.

6 “Criminal intelligence information”, data which has been evaluated to determine that it is
7 relevant to the identification of and the criminal activity engaged in by an individual who or
8 organization which is reasonably suspected of involvement in criminal activity. Such
9 reasonable suspicion is established when information exists which establishes sufficient facts to

10 give a trained law enforcement or criminal justice agency officer, investigator, or employee a
11 basis to believe that there is a reasonable possibility that an individual or organization is involved
12 in a definable criminal activity or enterprise.

13 “Criminal intelligence system”, the arrangements, equipment, facilities, and procedures
14 used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal
15 intelligence information, including the commonwealth fusion center, the Boston regional
16 intelligence center, and any successor entities.

17 “Personal data”, any information concerning an individual which, because of name,
18 identifying number, mark or description can be readily associated with a particular individual;
19 provided, however, that personal data shall not include information that would reasonably be
20 expected to: interfere with an ongoing criminal investigation or other law enforcement
21 proceeding; constitute a clearly unwarranted invasion of personal privacy; disclose the identity of
22 a confidential source; or endanger the life or physical safety of any individual.

23 SECTION 2. Said Chapter 66A is hereby amended by inserting after section 2 the
24 following sections:-

25 Section 2 ½. At least once annually, every criminal intelligence system shall conduct an
26 internal audit, the report of which shall be a public record. This audit shall include:

27 (1)For each database that contains personal data, the number of authorized users, each
28 user’s level of access, and the quantity of data accessed by each user on a weekly basis;

29 (2)For each database that contains personal data, the number of transactions performed
30 by transaction type, unique user, and access location;

31 (3)For each database that contains personal data, the quantity of data collected and
32 maintained from each unique source, and the frequency of use in an investigation of data from
33 each source;

34 (4)The numbers of investigations authorized and denied under subsection (b)(4) of
35 section 1A of Chapter 276;

36 (5)The number of investigations authorized under said subsection (b)(4) that remain
37 open;

38 (6)For each open investigation authorized under said subsection (b)(4), the length of time
39 the investigation has remained open and a justification for continued collection or maintenance
40 of protected information;

41 (7)The number of investigations authorized under said subsection (b)(4) that have led to
42 indictments or prosecutions, and the names and docket numbers of resulting court proceedings;

43 (8)The number of authorized disseminations under subsection (b)(3) of section 1A of
44 Chapter 276, and to which entity each dissemination was made.

45 Section 2 ³/₄. Every criminal intelligence system shall provide assistance and unrestricted
46 access to the inspector general, who may from time to time prepare a report on the compliance of
47 criminal intelligence systems with section 1A of Chapter 276, which report shall include
48 recommendations for corrective action and be a public record.

49 SECTION 3. Chapter 276 of the General Laws is hereby amended by striking out section
50 1A and inserting in place thereof the following section:-

51 Section 1A. (a) No state or local law enforcement agency, prosecutorial office, criminal
52 intelligence system, police or peace officer, or agent thereof shall track, collect or maintain
53 information about the political, religious or social views, associations or activities of any
54 individual, group, association, organization, corporation, business or partnership or other entity
55 unless such information directly relates to an investigation of criminal activities, and there are
56 reasonable grounds to suspect the subject of the information is involved in criminal conduct. Any
57 information collected or maintained under this section shall be referred to hereinafter as
58 “protected information.”

59 (b) No criminal intelligence system, as defined in chapter 66A of the General Laws, or
60 state or local law enforcement agency in receipt of information from an criminal intelligence
61 system, shall collect, maintain, or disseminate protected information except in accordance with
62 the provisions of this section:

63 (1) No protected information obtained in violation of any applicable federal, state, or
64 local law, ordinance, or regulation shall be knowingly accessed, received, maintained, or
65 disseminated.

66 (2) All protected information shall be evaluated for the reliability of its source and the
67 accuracy of its content prior to being recorded in any investigation file.

68 (3) Protected information shall be disseminated only to law enforcement agencies,
69 contingent upon review and prior written authorization by the head of the originating law
70 enforcement agency or criminal intelligence system. A record of any such written authorization,
71 which shall specify the reasons the dissemination is necessary, shall be maintained for a
72 minimum of five years. The originating entity shall record each instance of dissemination,

73 whether written or oral, in a log containing the name of the subject or subjects, the name of the
74 entity with whom the information was shared, and the date of dissemination.

75 (4) All investigations undertaken on the basis of any protected information shall first be
76 authorized in writing by the head of the investigating law enforcement agency or criminal
77 intelligence system. A record of any such written authorization, which shall specify the reasons
78 for such investigation, shall be maintained in the corresponding investigation file for a minimum
79 of five years

80 (5) All information recorded in any investigation file shall be reviewed at least once
81 every five years, and any information that is not reliable, accurate, relevant, and timely, shall be
82 destroyed, provided however, that any documents related to the authorization for and termination
83 of investigations based in whole or in part on protected information collected under section 1A
84 of this chapter, and any authorization to disseminate such protected information, shall be
85 retained. Information retained in an investigation file after a review shall be accompanied by the
86 following documentation: the name of the reviewer, the date of review, and an explanation of the
87 decision to retain the information.