HOUSE DOCKET, NO. 1495 FILED ON: 1/20/2011

HOUSE . . . . . No. 1736

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:

An Act to enhance access to electronic public records.

PETITION OF:

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

	[District]
Jennifer E. Benson	*37th Middlesex*
Angelo L. D'Emilia	*8th Plymouth*
Jonathan Hecht	*29th Middlesex*
James Arciero	*2nd Middlesex*
Gailanne M. Cariddi	*1st Berkshire*
Stephen Stat Smith	*28th Middlesex*
Martha M. Walz	*8th Suffolk*

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By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 1736) of Antonio F. D. Cabral and others relative to the enhancment of access to electronic public records. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

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:

SECTION 1. Clause Twenty-sixth of Section 7 of Chapter 4 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "characteristics," the following words:--

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

SECTION 2. Chapter 66 of the General Laws as so appearing is hereby amended by inserting after Section 3 the following new section:--

Section 3A. When designing or acquiring an electronic recordkeeping system or database, any person having custody of a public record shall ensure that such system or database is capable of providing data in a common format such as, but not limited to, the American Standard Code for Information Interchange or the Uniform Character Set Transformation Format. When records maintained electronically include both public record information and exempt information that may be withheld from public inspection, the custodian shall design its information storage and retrieval methods in a manner that permits the segregation and retrieval of public record information in order to provide maximum public access. No custodian of a public record may enter into a contract for the storage of electronic records containing public record information that impairs or restricts public access to those records.

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

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
23 by inserting at the end thereof the following paragraph:--

24 (e) If a public record or public record information is available in electronic form, the
25 custodian shall, at the option of the requester, provide it in that form. In making a record
26 available to a requestor, the custodian shall provide the record in any format requested if the
27 record is readily reproducible in that format. If a request does not specify the format for
28 producing electronically stored information, the custodian shall provide the record information in
29 a common format that is reasonably usable. For public records in electronic form, a custodian
30 may charge the requestor only the actual cost of any storage devices or materials provided to the
31 requestor. When the custodian`s information technology capabilities are inadequate to prepare a
32 copy of the record, the custodian may charge the requestor the actual cost of engaging an outside
33 service to prepare a copy, provided that no fee shall be charged in excess of the hourly salary
34 attributed to the lowest paid state employee who has the necessary skill required to prepare such
35 a copy. Any programming necessary to retrieve a public record or public record information and
36 provide the record or record information in the requested format, or to allow the record or record
37 information to be read or printed, shall not be deemed to be the preparation or creation of a new
38 record.

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

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

50 (b) Every state agency shall prepare and maintain reference materials to enhance
51 access to public records in its custody and enable requestors to make informed requests,
52 including: (i) a reasonably detailed document classification scheme, to be updated annually,
53 outlining categories of records maintained by the agency, whether or not open for public
54 inspection,; and (ii) an index and description of all major databases, document management
55 applications, and electronic recordkeeping and locator systems maintained by the agency,
56 including an indication of which records are publicly accessible, at no charge, on the internet.
57 Each state agency that maintains a website shall post such reference materials on its website.

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