SENATE DOCKET, NO. 136 FILED ON: 1/18/2011

SENATE . . . . . No. 810

The Commonwealth of Massachusetts

PRESENTED BY:

Michael R. Knapik

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 relative to reporting child pornography.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael R. Knapik	☐ *[District]* ☐
Bruce E. Tarr	☐ *[District]* ☐
Cheryl A. Coakley-Rivera	*10th Hampden*

SENATE DOCKET, NO. 136 FILED ON: 1/18/2011

SENATE . . . . . No. 810

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 810) of Michael R. Knapik, Bruce E. Tarr and Cheryl A. Coakley-Rivera for legislation to report child pornography. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1725* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to reporting child pornography.

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. Chapter 272 of the General Laws is hereby amended by inserting after section 29C the following section:- Section 29D. (a) For the purposes of this section the following words shall have the following meanings:-

"Commercial computer technician", any person who repairs, installs or otherwise services any computer including, but not limited to, a component part, device, memory storage or recording mechanism, auxiliary storage, recording or memory capacity, or any other materials relating to operation and maintenance of a computer or computer network or system, for compensation.

"Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, makes prints from negatives or slides or downloads photographic images onto discs for compensation.

"Sexual conduct", human masturbation, sexual intercourse, actual or simulated, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship, any lewd touching of the genitals, pubic areas, or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals, and any depiction or representation of excretory functions in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse which gives the appearance of the consummation of sexual intercourse.

19 (b) Any commercial film and photographic print processor, commercial computer
20 technician, internet service provider or electronic service provider that has knowledge of or
21 observes, within the scope of such person's employment, any film, photograph, videotape,
22 negative, slide or computer-generated image or any other visual image depicting another, that
23 such technician, processor or provider knows is under the age of 18 or that such technician,
24 processor or provider has reason to know that such person is a child under 18 years of age, and
25 such image depicts such person engaged in sexual conduct shall report the knowledge or
26 observation of such image to the state police or the municipal law enforcement agency having
27 jurisdiction over the matter as well as the name, address and any other identifying data of the
28 individual requesting the development of the image or of the owner or person requesting the
29 computer technician service, including the internet protocol address, if applicable. Such report
30 shall be made as soon as practically possible. Whoever violates this section shall be punished by
31 a fine of not less than $500 nor more than $2,500 for a first offense and not less than $2,500 nor
32 more than $5,000 for any subsequent offense.

33 (c) This section shall not require that a commercial film and photographic print processor,
34 commercial computer technician, internet service provider or electronic service provider review
35 or monitor all film, disks, data or tapes under such commercial film or photographic print
36 processor, commercial computer technician, or internet service provider or electronic service
37 provider's control within the scope of such business for the purpose of complying with this
38 section.

39 (d) No action taken in good faith to comply with this section by a commercial film or
40 photographic print processor, commercial computer technician, internet service provider or
41 electronic service provider shall give rise to any civil liability.

42 (e) No commercial film and photographic print processor, commercial computer
43 technician, internet service provider or electronic service provider who, in good faith, transfers to
44 a law enforcement agency at the request of such agency, an image which depicts a child that is or
45 appears to be under the age of 18 engaged in sexual conduct and discovered in the course of his
46 business, or preserves a copy of such image for the purpose of providing the image to a law
47 enforcement agency and which image is subsequently provided to a law enforcement agency,
48 shall be criminally liable for such temporary possession or preservation or transfer.