

HOUSE No. 3353

The Commonwealth of Massachusetts

PRESENTED BY:

James J. Lyons, Jr.

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 increasing the penalties for violations of public records laws.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|----------------------------|-------------------|------------------|
| <i>James J. Lyons, Jr.</i> | <i>18th Essex</i> | <i>1/18/2013</i> |

HOUSE No. 3353

By Mr. Lyons of Andover, a petition (accompanied by bill, House, No. 3353) of James J. Lyons, Jr., relative to the penalties for violations of public records laws. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act increasing the penalties for violations of public records laws.

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 10 of chapter 66 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by inserting after the word “who”, in line 30, the following:-
3 , in addition to enforcing the penalties set forth in section 15,

4 SECTION 2. Chapter 66 of the General Laws is hereby further amended by striking out
5 section 15, as so appearing, and inserting in place thereof the following section:-

6 Section 15. (a) The attorney general or the appropriate district attorney for the county in
7 which a public record is held shall take action against any person who unlawfully keeps in the
8 person’s possession, or causes to be kept in the person’s employer’s possession, any public
9 record. Whoever unlawfully keeps in their possession, or causes to be kept in their employer’s
10 possession, any public record beyond the tenth day following receipt of a request for inspection
11 or copy of a public record shall for the first offense be punished by a personal fine of \$10 per
12 day, shall for the second offense be punished by a personal fine of \$25 per day, or imprisonment
13 for not more than 6 months, or both, and shall for any subsequent offenses be punished by a
14 personal fine of \$50 per day, or imprisonment for not less than 6 months nor more than 2 years,
15 or both.

16 The failure to pay any fine imposed or produce any records required by this subsection
17 shall be punishable by imprisonment for not more than 6 months.

18 (b) Whoever unlawfully keeps in the person’s possession, or causes to be kept in the
19 person’s employer’s possession, any public record shall pay all costs and attorneys’ fees

20 associated with any administrative or court proceeding necessary to ensure the person's
21 compliance with any of the provisions of this chapter.

22 (c) Whoever unlawfully removes any public record from the room where it is usually
23 kept, or alters, defaces, mutilates or destroys any public record or otherwise violates any
24 provision of this chapter shall be punished by a fine of not less than \$10 nor more than \$500, or
25 by imprisonment for not more than 1 year, or both. Any public officer who refuses or neglects to
26 perform any duty required of him by this chapter shall for each month of such neglect or refusal
27 be punished by a fine of not more than \$20 in addition to any fines imposed under subsection (a).

28 (d) The secretary of the commonwealth shall be responsible for collecting the fees
29 imposed by this section. The secretary shall, within 10 days of receiving notice of a violation
30 triggering the penalties of subsections (a) or (c), take action to ensure compliance with this
31 section.

32 (e) The secretary of the commonwealth shall pay a fine of \$250 per day for any failure to
33 take action beyond the tenth day of receiving notice of a violation triggering the penalties of
34 subsections (a) or (c).

35 (f) The superior court shall have exclusive jurisdiction to enforce this section and may
36 impose additional penalties for a third and any subsequent violation of any provision of this
37 chapter.