HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Alan Silvia

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 relative to the harmful distribution of sexually explicit visual material.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Alan Silvia	7th Bristol	2/26/2014
Paul A. Schmid, III	8th Bristol	2/26/2014
Carole Fiola	6th Bristol	2/26/2014

HOUSE DOCKET, NO. 4122 FILED ON: 2/26/2014

HOUSE No.

By Mr. Silvia of Fall River, a petition (subject to Joint Rule 12) of Alan Silvia, Paul A. Schmid, III and Carole Fiola for legislation to include instructions on the dangers and negative consequences of distributing sexually explicit visual material in human sexuality curriculum. Education.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to the harmful distribution of sexually explicit visual material.

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. Section 32A of said chapter 71 of the General Laws is hereby amended by
 inserting after the third paragraph the following paragraph:-

3 Every city, town, regional school district or vocational school district implementing or 4 maintaining a curriculum which primarily involves human sexual education or human sexuality 5 issues shall include as a component of such curriculum, for students determined to be an 6 appropriate age, instruction on the dangers and negative consequences of distributing sexually 7 explicit visual material depicting other students or sexually explicit self-depictions, as those 8 terms are defined in section 106 of chapter 272. Every city, town, regional school district or 9 vocational school district shall also include, for students determined to be an appropriate age, 10 instruction on the dangers and negative consequences of distributing sexually explicit visual 11 material depicting other students or sexually explicit self-depictions, as those terms are defined in section 106 of chapter 272, in any curriculum for health education that it implements or 12 maintains. For purposes of this paragraph, the term "distributing" shall mean distributing, 13 14 transmitting, posting, exchanging or disseminating through a computer, wireless communication 15 device, or other digital media. 16 SECTION 2. Chapter 272 of the General Laws is hereby amended by adding the 17 following 2 sections:-

18 Section 106. (a) As used in this section, the following terms shall have the following19 meanings:-

- 20 "Distribute", distribute, transmit, post, exchange or disseminate through a computer,
 21 wireless communication device, or other digital media.
- 22 "Minor", a person under 18 years of age.

23 "Nudity", showing of the human male or female genitals, pubic area, or buttocks with
24 less than a fully opaque covering or the showing of the female breast below a point immediately
25 above the top of the areola.

26 "Sexual act", sexual intercourse, including genital, anal or oral sex.

27 "Sexually explicit visual material", any motion picture film, picture, photograph, image,
28 videotape, recording by computer, telephone or any other device capable of electronic data
29 storage or transmission, or any similar visual representations or reproductions thereof depicting
30 another person in any condition of nudity or committing a sexual act.

31 "Sexually explicit self-depiction", any motion picture film, picture, photograph, image,
32 videotape, recording by computer, telephone or any other device capable of electronic data
33 storage or transmission, or any similar visual representations or reproductions thereof, depicting
34 a person in any condition of nudity and created by that person so depicted.

35 (b) Whoever, being a minor, distributes any sexually explicit visual material depicting 36 another minor shall be punished by a fine of not more than \$250 for a first offense, by a fine of 37 not more than \$500 for a second offense and by a fine of not more than \$1000 or imprisonment 38 for not more than 60 days for a third or subsequent offense.

39 (c) Whoever, being a minor, distributes a sexually explicit self-depiction shall be
40 punished by a civil fine of not more than \$50 for a first offense and by a civil fine of not more
41 than \$100 for a second or subsequent offense.

42 Section 107. As used in this section, the following terms shall have the following43 meanings:-

44 "Electronic communication device" shall include but not be limited to, a telephone, cell
45 phone, computer, Internet Web pages or sites, Internet phones, hybrid cellular and wireless
46 devices, personal digital assistances, video recorders or digital cameras.

47 "Nudity", showing of the human male or female genitals, pubic area, or buttocks with
48 less than a fully opaque covering or the showing of the female breast below a point immediately
49 above the top of the areola.

50 "Sexual act", sexual intercourse, including genital, anal or oral sex.

- 51 "Visual material", any motion picture film, picture, photograph, image, videotape, 52 recording by computer, telephone or any other device capable of electronic data storage or
- 53 transmission, or any similar visual representations or reproductions thereof.

54 Whoever, with the intent to cause substantial emotional distress or humiliation, by means 55 of an electronic communication device, and without consent of the other person, electronically 56 distributes, publishes, emails, hyperlinks, or makes available for downloading, visual material 57 depicting nudity of another, identifiable person, or showing another, identifiable person engaged 58 in a sexual act, shall be punished by a fine of not less than \$1,000 or imprisonment for not less 59 than 1 year, or by both such fine and imprisonment, for a first offense, and by a fine of not less 60 than \$2,000 or imprisonment for not less than 5 years, or by both such fine and imprisonment, 61 for a second or subsequent offense.