

SENATE No. 648

The Commonwealth of Massachusetts

PRESENTED BY:

Katherine M. Clark

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 providing protection from photographing, videotaping or electronically surveilling a partially nude or nude child.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Middlesex District Attorney Gerry Leone</i>	<i>15 Commonwealth Avenue Woburn, MA 01801</i>
<i>Gale D. Candaras</i>	<i>First Hampden and Hampshire</i>

SENATE No. 648

By Ms. Clark, a petition (accompanied by bill, Senate, No. 648) of Katherine M. Clark, John W. Scibak, Jennifer L. Flanagan, Sal N. DiDomenico and other members of the General Court for legislation to provide protection from photographing, videotaping or electronically surveilling a partially nude or nude child. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1953 OF 2011-2012.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen
—————

An Act providing protection from photographing, videotaping or electronically surveilling a partially nude or nude child.

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 105 of chapter 272 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking the definition of “partially nude” from subsection
3 (a) and inserting the following:-

4 “intimate area” – human genitals, buttocks, pubic area, or female breast below a point
5 immediately above the tip of the areola, whether naked or covered by undergarments.

6 SECTION 2. Section 105 of chapter 272 of the General Laws, as so appearing, is hereby
7 amended by striking from subsection (b) “another person who is nude or partially nude” and
8 inserting in its place the following:-

9 an intimate area of another person

10 SECTION 3. Section 105 of chapter 272 of the General Laws, as so appearing, is hereby
11 amended by adding after subsection (b) the following new subsection:-

12 (b½) Whoever willfully photographs, videotapes or electronically surveils an intimate
13 area of a child under eighteen years of age, with the intent to secretly conduct or hide such

14 activity, when the other person in such place and circumstance would have a reasonable
15 expectation of privacy in not being so photographed, videotaped or electronically surveilled, and
16 without that person's knowledge and consent, shall be punished by imprisonment in the state
17 prison for not more than 5 years or in a jail or house of correction for not more than 2½ years or
18 by a fine of not more than \$10,000, or by both such fine and imprisonment.

19 SECTION 4. Section 105 of chapter 272 of the General Laws, as so appearing, is hereby
20 amended by striking from subsection (c) “another person who is nude or partially nude” and
21 inserting in its place the following:-

22 an intimate area of another person

23 SECTION 5. Section 105 of chapter 272, as so appearing, is hereby further amended by
24 adding at the end of subsection (c) the following new subsection:-

25 (c½) Whoever willfully disseminates the visual image of an intimate area of a child
26 under eighteen years of age with knowledge that such visual image was unlawfully obtained in
27 violation of subsection (b), shall be punished by imprisonment in the state prison for not more
28 than 10 years or in a jail or house of correction for not more than 2½ years or by a fine of not
29 more than \$50,000, or by both such fine and imprisonment.

30 SECTION 6. Section 105 of chapter 272, as so appearing, is hereby further amended by
31 striking from subsection (g) “a person who is nude or partially nude” and inserting in its place
32 the following:-

33 an intimate area of another person