

HOUSE No. 1260

The Commonwealth of Massachusetts

PRESENTED BY:

Geoff Diehl, (BY REQUEST)

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 invasions of privacy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Chris DiOrio</i>	<i>Whitman, MA</i>	<i>1/16/2015</i>

HOUSE No. 1260

By Mr. Diehl of Whitman (by request), a petition (accompanied by bill, House, No. 1260) of Chris DiOrio relative to the penalties for invasion of privacy. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to invasions of privacy.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 c. 265 §43 is hereby amended by adding:

2 §43B

3 1. Whoever, while knowing that he/she is not licensed or privileged to do so, (a)
4 observes another person without that person's consent and under circumstances in which a
5 reasonable person would not expect to be observed, under circumstances in which a reasonable
6 person would know that another may expose intimate parts or may engage in sexual penetration
7 or sexual contact, (b) photographs, films, videotapes, records, or otherwise reproduces in any
8 manner, the image of another person whose intimate parts are exposed or who is engaged in an
9 act of sexual penetration or sexual contact, without that person's consent and under
10 circumstances in which a reasonable person would not expect to be observed, (c) discloses any
11 photograph, film, videotape, recording or any other reproduction of the image of another person
12 whose intimate parts are exposed or who is engaged in an act of sexual penetration or sexual

13 contact, unless that person has consented to such disclosure, shall be guilty of the crime of
14 criminal invasion of privacy and shall be punished by imprisonment in a house of correction for
15 not more than 2 1/2 years or by a fine of not more than \$1,000, or by both such fine and
16 imprisonment. The conduct or acts described in this paragraph shall include, but not be limited
17 to, conduct or acts conducted by mail or by use of a telephonic or telecommunication device or
18 electronic communication device including, but not limited to, any device that transfers signs,
19 signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part
20 by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not
21 limited to, electronic mail, internet communications, instant messages or facsimile
22 communications.

23 2. The conduct or acts described in this paragraph shall include, but not be limited to,
24 conduct or acts conducted by mail or by use of a telephonic or telecommunication device or
25 electronic communication device including, but not limited to, any device that transfers signs,
26 signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part
27 by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not
28 limited to, electronic mail, internet communications, instant messages or facsimile
29 communications.

30 3. For purposes of this subsection, "disclose" means sell, manufacture, give, provide,
31 lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit,
32 advertise or offer.

33 4. Whoever, after having been convicted of the crime of criminal harassment, commits a
34 second or subsequent such crime, or whoever commits the crime of criminal harassment having

previously been convicted of a violation of section 43, shall be punished by imprisonment in a house of correction for not more than two and one-half years or by imprisonment in the state prison for not more than ten years.

5. It is an affirmative defense to a crime under this section that:

(a) the actor posted or otherwise provided prior notice to the person of the actor's intent to engage in the conduct specified in subsection 1, and the actor acted with a lawful purpose; or

(b) lawful and common practices of law enforcement, reporting unlawful activity, or when permitted or required by law or rule in legal proceedings; or

(c) lawful and common practices of medical treatment; or

(d) images involving voluntary exposure in a public or commercial setting.