

HOUSE No. 2028

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema

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 to protect student privacy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Brian Murray</i>	<i>10th Worcester</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>

Alice Hanlon Peisch
Paul Brodeur

14th Norfolk
32nd Middlesex

HOUSE No. 2028

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 2028) of Carolyn C. Dykema and others relative to access to personal technological devices by schools. Education.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to protect student 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 SECTION 1. The General Laws are hereby amended by inserting after section 94 of
2 chapter 71 the following section:-

3 Section 95.

4 (a) For the purposes of this section, the following words shall have the following
5 meanings:--

6 “Personal device”, a technological device owned, leased, or lawfully possessed by a
7 student that was not provided to the student by the school or school district.

8 “Technological device”, any computer, cellular phone, smartphone, digital camera, video
9 camera, audio recording device, or other electronic device that can be used for creating, storing,
10 or transmitting information in the form of electronic data.

11 “Third party”, any person or entity other than a school employee, student, or parent or
12 legal guardian of a student.

13 (b) Educational institutions shall have the discretion to limit or prohibit the possession or
14 use of certain personal devices by students on school property. A violation of such a limitation
15 or prohibition shall not be the sole basis for a reasonable suspicion to access the device.

16 (c) No school employee or third party shall access any data or other content input into or
17 stored upon a personal device of a student, notwithstanding any violation of school code of
18 conduct provisions regarding possession or use of such device, unless:

19 (1) A school employee has a reasonable suspicion that a student has violated or is
20 violating a separate provision of the code of conduct and that the device contains evidence
21 thereof, subject to the following limitations:

22 (i) Searches of shall be conducted only of personal devices located on school
23 property.

24 (ii) Prior to searching a student’s personal device based on reasonable suspicion, the
25 school employee shall document such reasonable suspicion and notify the student and the
26 student’s parent or legal guardian of the suspected violation and the type of data sought to be
27 accessed in searching for evidence of the violation.

28 (iii) Searches of a student’s personal device based on reasonable suspicion shall be
29 strictly limited to locating evidence of the particular suspected policy violation.

30 (iv) Where a student is suspected of conduct which is a criminal offense under the
31 general laws, no search shall be undertaken without the authorization of a valid judicial warrant

32 secured in accordance with subsection (c)(2), notwithstanding any suspected violation of the
33 school code of conduct.

34 (2) Authorized by a valid warrant for the search of the device issued pursuant to the
35 requirements of sections 2 through 3A of chapter 276; or

36 (3) Accessing a student's personal device is necessary in response to an imminent threat
37 to life or safety. Within 72 hours of accessing a personal device in response to an imminent
38 threat to life or safety, the school employee or law enforcement official who accessed the device
39 shall provide the student whose device was accessed, the student's parent or legal guardian, and
40 the educational institution a written description of the particular threat and the data accessed.

41 (d) Evidence or information obtained or collected in violation of this section shall not be
42 admissible as evidence in any civil or criminal trial or legal proceeding, disciplinary action, or
43 administrative hearing.