

SENATE No. 889

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

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 use of administrative subpoenas to obtain telephone and internet records without judicial review.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/23/2019</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>1/28/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/28/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>1/30/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/30/2019</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/31/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/31/2019</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>2/1/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/7/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/8/2019</i>

SENATE No. 889

By Ms. Creem, a petition (accompanied by bill, Senate, No. 889) of Cynthia Stone Creem, Jack Patrick Lewis, Maria Duaine Robinson, Thomas M. Stanley and other members of the General Court for legislation relative to the use of administrative subpoenas to obtain telephone and internet records without judicial review. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to the use of administrative subpoenas to obtain telephone and internet records without judicial review.

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. Chapter 271 of the General Laws is hereby amended by inserting at the end
2 of Section 17B, as appearing in the 2016 Official Edition, the following:-

3 On or before the first of March each year, the attorney general and each district attorney
4 shall produce a report which shall indicate the following information for the previous calendar
5 year:

6 a) the number of administrative subpoenas issued by the office, broken down by statutory
7 offense being investigated;

8 b) the names of the common carriers and service providers subpoenaed, including the
9 number of subpoenas directed to each;

10 c) the number of administrative subpoenas seeking transactional records spanning time
11 periods less than 1 day, between 1 day and 1 week, between 1 week and 30 days, and greater
12 than 30 days;

13 d) the number of administrative subpoenas requesting the following categories of
14 information: (i) information that directly or incidentally reveals the physical location of the
15 subscriber; (ii) information that reveals, or can readily be used to reveal, the identity of parties
16 other than the subscriber; (iii) information that reveals the frequency of communications between
17 two or more persons; (iv) call detail logs or other records containing information about who the
18 subscriber called, when, and the duration of the calls; or (v) banking, credit card, or other
19 financial records.

20 e) the number of criminal prosecutions, charged by complaint or indictment, initiated
21 after records were obtained in response to an administrative subpoena;

22 f) the number of criminal convictions secured after records obtained via administrative
23 subpoena, or information derived from such records, were introduced in evidence; and

24 g) the number of motions filed to quash administrative subpoenas, and the number of
25 such motions that were successful.

26 The reports from the attorney general and each district attorney shall be filed with the
27 clerks of the Senate and the House of Representatives and with the executive office for
28 administration and finance, which shall post them on the Commonwealth's open data website to
29 make them available as a public record. In the event of failure to comply with the provisions of
30 this reporting provision, any person may compel compliance by means of an action of mandamus

31 in superior court. If the court finds that such failure to comply represented a willful violation of
32 this section, it may award the plaintiff the reasonable costs of litigation and attorney fees.