

**HOUSE . . . . . No. 5405**

**The Commonwealth of Massachusetts**

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HOUSE OF REPRESENTATIVES

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REPORT  
of the  
SPECIAL JOINT  
COMMITTEE  
on  
INITIATIVE PETITIONS  
on the  
INITIATIVE PETITION  
of  
DANIELLE SUSAN ALLEN  
AND OTHERS  
FOR THE PASSAGE OF AN ACT  
TO IMPROVE ACCESS TO PUBLIC RECORDS  
(see House, No. 5004)

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May 4, 2026.

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## MAJORITY REPORT.

### A majority of the Special Joint Committee on Initiative Petitions

Article 48 of the Amendments to the Constitution of the Commonwealth allows voters to propose laws or constitutional amendments through initiative petitions, commonly called ballot questions. After gathering the required signatures and submitting certified signatures to the Secretary of the Commonwealth, a petition is formally presented to the Legislature for consideration. It is then referred to a committee, in this case, the Special Joint Committee on Initiative Petitions.

Under Article 48, the committee must report to the Legislature on each petition before the first Wednesday in May. Unlike the standard legislative process, the Legislature may only approve or reject an initiative petition as submitted, without making changes.

The Committee held a hearing on Initiative Petition 25-14, House 5004, *Initiative Petition for a Law to Improve Access to Public Records*, on March 3, 2026. The Special Joint Committee on Initiative Petitions held public hearings throughout March 2026 to gather testimony and inform its review. The Committee considered input from subject matter experts, proponents and opponents of the Petition, as well as members of the public. The full hearing record and supporting documentation is available to the public at [malegislature.gov/Events/Hearings/Detail/5590](https://malegislature.gov/Events/Hearings/Detail/5590).

On May 4, 2026, a majority of the Special Joint Committee on Initiative Petitions (“the Committee”) voted to recommend that the General Court **take no action** on Initiative Petition 25-14, House 5004, *Initiative Petition for a Law to Improve Access to Public Records* (“the Petition”).

This Petition intends to subject the Governor’s office and the Legislature to the public records law under chapters 4 and 66 of the Massachusetts General Laws. The Committee notes that while the Petition would provide two new exemptions to the public records law beyond what currently exists in chapter 4, it was pointed out at the legislative hearing that those additional exemptions may be less helpful than the proponents believe them to be. The proponents stated at the hearing that they offered the new exemptions to avoid legal concerns related to disclosing constituent correspondence and policy development records to the public. However, the new exemption for constituent communications is too narrow to address those legal concerns. The proposed new exemption related to constituent communications covers only specific requests from constituents to legislators for assistance in obtaining government-provided benefits or services or otherwise interacting with a state or federal agency. The new exemption would not cover communications involving constituents who are seeking connection to services that are not run by the state or federal government, such as services provided by a hospital or non-profit organizations. The proposed exemption also would not prevent the disclosure of communications from constituents relating to advocacy for or against specific legislation; that limitation could hinder an individual’s desire to communicate with legislators and suppress their right to petition their government.

With respect to the proposed exemption for records relating to developing policy positions, the proponents made clear at the hearing that the exemption is intended to cover only communications during policy development, and any such exemption expires once the policy is developed. Such an exemption is limited and temporary, and it will chill open communications by lawmakers in a

manner that raises significant constitutional concerns, particularly around legislative speech and debate protections.

Contrary to assertions made by proponents, the Committee notes that the legislative process in the Commonwealth is already structured to be publicly accessible. All hearings are conducted in open public sessions, and testimony is accepted from members of the public, advocacy organizations, subject matter experts, and government officials. Legislative sessions, hearings, and committee meetings are publicly noticed and open to the public, and many are live-streamed and archived for later viewing.

In addition, the Massachusetts Legislature provides multiple avenues for public engagement. Bills, amendments, and roll-call votes are published online, enabling residents to track legislation and review how their elected representatives vote. Committee calendars, reports, votes, and related documents are also made publicly available, allowing constituents to follow the progress of legislation through the committee process. These mechanisms collectively ensure a high degree of visibility into the legislative process and opportunities for public participation.

Also, the Committee concludes that the proposed changes may impose substantial administrative burdens on the state, both for compliance and enforcement. State entities would likely need to reallocate staff resources, develop new compliance protocols, and potentially modify existing records management systems in order to meet the requirements of the Petition. These operational demands could divert resources away from other core governmental functions.

In reaching this determination, the Committee reviewed the language and intent of the proposed measure, as well as testimony and evidence presented during the public hearing, which is available on the Committee's website. The Committee recognizes the importance of public access to government records; however, it has significant concerns regarding the Petition's potential operational, legal, and fiscal impacts.

Based on testimony by the experts and from the opponents, the Committee believes that this Petition violates the separation of powers mandated by the Massachusetts Constitution. This Petition would, through law, require the Secretary of the Commonwealth — an officer of the executive branch — to enforce this law against the Senate and House of Representatives in the legislative branch. This would violate the Massachusetts Constitution as it would provide the executive branch with supervisory authority over the legislative branch; such a dramatic shift in authority between the branches of Massachusetts government can only be accomplished through a constitutional amendment, not a new statute.

The Committee knows that the members of the Legislature have a shared commitment to increasing public access to the Legislature, and we look forward to helping increase accessibility through means that avoid the constitutional pitfalls of the present Petition.

It is important to note that Article 48 of the Amendments to the Massachusetts Constitution, which governs the initiative petition process, requires the Attorney General to provide initial certification of initiative petitions that meet the specific and limited requirements listed in Article 48. In making a decision on whether to initially certify an initiative petition, the Attorney General does not

evaluate a petition's broader constitutionality; her certification decision is limited only to the narrow criteria listed in Article 48. Thus, this Petition has been certified by the Attorney General under Article 48, but it has not been evaluated by her or the courts for its constitutionality at this time. Nevertheless, the Justices of the Supreme Judicial Court in an advisory opinion issued on April 27, 2026, stated that the Initiative Petition may raise several significant constitutional questions (including whether the Initiative Petition violates the separation of powers), and the Justices reserved consideration of those constitutional concerns for another occasion.

As the Legislature cannot amend this proposal, a majority of the Committee recommends that the General Court **take no action** on Initiative Petition 25-14, House 5004, *Initiative Petition for a Law to Improve Access to Public Records*.

Senators.

Cindy F. Friedman  
Brendan P. Crighton  
Paul R. Feeney

Representatives.

Alice Hanlon Peisch  
Kate Hogan  
Frank A. Moran  
Michael S. Day  
David T. Vieira