

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Richard M. Haggerty

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 free flow of information.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Richard M. Haggerty</i>	<i>30th Middlesex</i>	<i>1/12/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to the free flow of information.

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 233 of the General Laws, as appearing in the 2020 Official Edition,
2 is hereby amended by inserting after section 83 the following section:-

3 Section 84. Free Flow of Information Act.

4 (a) For the purposes of this section, the following terms shall have the following
5 meanings unless the context clearly requires otherwise:-

6 “Covered journalist”, a person who regularly and credibly gathers, prepares, collects,
7 photographs, records, writes, edits, reports, investigates, or publishes news or information
8 in a professional manner that concerns local, national, or international events or other matters of
9 public interest for dissemination to the public.

10 “Covered service provider”, (a) any person that, by an electronic means, stores,

11 processes, or transmits information in order to provide a service to customers of the
12 person;

13 (b) a telecommunications carrier and a provider of an information service; (c) a provider
14 of an

15 interactive computer service and an information content provider; (d) a provider of
16 remote computing service; or (e) a provider of electronic communication service to the public.

17 “Document”, writings, audio and video recordings, and photographs.

18 “Government entity”, office, agency, board, commission, agent or employee of the
19 commonwealth or its subdivisions with the power to issue a subpoena or issue other
20 compulsory process.

21 “Journalism”, credible and professional gathering, preparing, collecting, photographing,
22 recording, writing, editing, reporting, investigating, or publishing news or information
23 that concerns local, national, or international events or other matters of public interest for
24 dissemination to the public.

25 “Personal account of a covered journalist”, an account with a covered service provider
26 used by a covered journalist that is not directly associated with the publication for which
27 the covered journalist engages in journalism.

28 “Personal technology device of a covered journalist”, a handheld communications device,
29 laptop computer, desktop computer, or other internet-connected device used by a covered

30 journalist that is not provided or administered by the publication for which the covered
31 journalist engages in journalism.

32 “Protected information”, any information identifying a source who provided information
33 as part of engaging in journalism, and any records, contents of a communication,
34 documents,

35 or information that a covered journalist obtained or created as part of engaging in
36 journalism. (b) In any matter arising under state law, a government entity may not compel a
37 covered journalist to disclose protected information, unless a court of competent jurisdiction
38 determines by a preponderance of the evidence, after providing notice and an opportunity to be
39 heard to the covered journalist, that the disclosure of the protected information is necessary to
40 prevent, or to identify any perpetrator of, an act of terrorism against the United States, the
41 commonwealth or its subdivisions; or the disclosure of the protected information is reasonably
42 likely to prevent a threat of imminent violence, bodily harm, or death.

43 (c) (i) A government entity may not compel a covered service provider to provide
44 testimony or production of any document consisting of any record, information, or other
45 communications stored by a covered service provider on behalf of a covered journalist,
46 including without limitation testimony or production of any document relating to a personal
47 account or a personal technology device of a covered journalist, unless a court of competent
48 jurisdiction determines by a preponderance of the evidence that disclosure is reasonably likely to
49 prevent a threat of imminent violence, bodily harm, or death. If such a determination is made, the
50 court shall issue an order authorizing the government entity to compel the disclosure.

51 (ii) A government entity seeking to compel the provision of testimony or production of
52 any document pursuant to this subsection shall inform the court that the testimony or document
53 relates to a covered journalist.

54 (iii) The court may authorize a government entity to compel the provision of testimony or
55 production of a document under this subsection only after the government entity seeking
56 the testimony or document provides the covered journalist on behalf of whom the testimony or
57 document is stored notice of the subpoena or other compulsory request for such testimony or
58 document from the covered service provider not more than 3 days after the subpoena or request
59 is issued to the covered service provider. The court shall provide the covered journalist an
60 opportunity to be heard prior to issuing a decision.

61 (iv) Notice and an opportunity to be heard under subparagraph (iii) above may be delayed
62 for not more than 45 days if the court determines there is clear and convincing evidence that such
63 notice would pose a clear and substantial threat to the integrity of a criminal investigation or
64 would present an imminent risk of death or serious bodily harm. The 45-day period may be
65 extended by the court for additional periods of not more than 45 days if the court makes a
66 renewed determination that there is clear and convincing evidence that providing notice to the
67 covered journalist would pose a clear and substantial threat to the integrity of a criminal
68 investigation or would present an imminent risk of death or serious bodily harm.

69 (d) The content of any testimony, document, or protected information that is compelled
70 under paragraphs (b) and (c) shall not be overbroad, unreasonable, or oppressive, and as
71 appropriate, shall be limited to the purpose of verifying published information or describing any
72 surrounding circumstances relevant to the accuracy of such published information and narrowly

- 73 tailored in subject matter and time period covered to avoid compelling the production of
- 74 peripheral, nonessential, or speculative information.