

SENATE No. 1098

The Commonwealth of Massachusetts

PRESENTED BY:

Ryan C. Fattman

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 protecting real property from warrantless searches.

PETITION OF:

NAME:

Ryan C. Fattman

DISTRICT/ADDRESS:

Worcester and Hampden

SENATE No. 1098

By Mr. Fattman, a petition (accompanied by bill, Senate, No. 1098) of Ryan C. Fattman for legislation relative to state officials to obtain a warrant before entering any private property. The Judiciary.

The Commonwealth of Massachusetts

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

An Act protecting real property from warrantless searches.

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 184 of the General Laws, as appearing in the 2022 Official Edition,
2 is hereby amended by inserting the following new section:-

3 Section 36. Warrantless Searches

4 Section 36. (a) As used in this section, the following words shall, unless the context
5 clearly states otherwise, have the following meanings:-

6 “Government agent” any local, state, or federal official who is employed or contracted by
7 government in this state, including any peace officer, inspector, and wildlife official.

8 “Home” any private residence that is owned, leased, used or occupied, including the
9 curtilage surrounding the residence.

10 “Private land” land that is owned, leased, used, or occupied by a natural person or a non-
11 government entity, including all such lands that would otherwise be considered “open fields.”

12 “Probable cause” the presence of facts and circumstances within the government agent’s
13 knowledge that would warrant a person of reasonable caution to believe that an offense has been
14 or is being committed. The possession, discharge, or use, by itself, of one or more items that are
15 legal to possess does not constitute probable cause for a government agent to enter a home or
16 private land.

17 “Warrant” a court order that is supported by individualized probable cause and executed
18 by a magistrate or judge.

19 (b) No government agent shall enter a home or private land without a warrant except:

20 (i) After receiving the permission of the property owner, lessee, or occupant;

21 (ii) To respond to a life-threatening emergency or another immediate threat to public
22 safety that was either reported to the agent or the agent personally observed

23 (iii) To prevent the imminent unlawful killing of wildlife or the destruction of evidence of
24 such unlawful killing where the agent has probable cause to believe either is about to occur; or

25 (iv) To dispatch crippled or distressed wildlife the agent has personally observed.

26 Upon entering private land, the government agent shall immediately notify the
27 landowner, lessee, or occupant if notice can be reasonably made. Unless entering under an
28 exception in this subsection, a government agent shall show the warrant to the property owner,
29 lessee, or occupant if they are present. If a government agent is equipped with a body-mounted
30 camera while entering a home or private land, the camera must be activated and recording the
31 entire time the agent is on the property. If a government agent enters private land pursuant to
32 clause (iv) of this subsection, the agent shall produce, upon the request of the landowner, lessee,

33 or lawful occupant, an image or other photo or video evidence of the wildlife dispatched by the
34 agent. A government agent shall not seize any private property, including currency, vehicles,
35 weapons, tools, or wild game, from a home or private land unless: (i) the agent first acquires a
36 warrant authorizing the seizure, or (ii) the agent has entered the home or private land with
37 consent or under exigent circumstances and has individualized probable cause of the commission
38 of a criminal offense.

39 (c) Any evidence obtained pursuant to a search or seizure conducted in violation of this
40 section is inadmissible in any administrative, civil, or criminal proceeding. Any arrest made
41 pursuant to a search or seizure conducted in violation of this section is invalid. If a government
42 agent searches or enters a home or private land in violation of this section, a person who believes
43 their rights have been violated may pursue an action under sections 11H through 11J, inclusive,
44 of chapter 12 of the General Laws. In an action under subsection (b), a prevailing plaintiff may
45 recover declaratory relief, injunctive relief, compensatory damages, nominal damages, and
46 attorney's fees.

47 SECTION 2. This act shall take effect upon its passage.