

SENATE No. 1328

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

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 relating to privileged communication between individuals and their labor organizations.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>2/24/2025</i>
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>3/2/2025</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>3/2/2025</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>3/20/2025</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>4/1/2025</i>

SENATE No. 1328

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1328) of Paul R. Feeney, John F. Keenan, Paul W. Mark and James B. Eldridge for legislation to require labor organizations to protect confidential communications when representing individuals. Labor and Workforce Development.

The Commonwealth of Massachusetts

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

An Act relating to privileged communication between individuals and their labor organizations.

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. Findings.

2 The Commonwealth’s legislature makes the following findings:

- 3 (1) Labor organizations have fiduciary duties to act on behalf of the individuals they
4 represent in regard to all aspects of labor-management relations with both public-sector and
5 private-sector employers. These matters include, but are not limited to, activity investigating,
6 seeking and/or securing representation, personnel matters, grievances, labor disputes and dispute
7 resolution, wages, rates of pay, hours of employment, conditions of work, collective bargaining,
8 contract administration, petitioning activity and adjudicatory actions before the courts and
9 administrative agencies.

10 (2) The discharge of those duties fosters industrial peace, human dignity, and the
11 continued improvement of the employment relationship, with benefits to employees, employers,
12 and the general public.

13 (3) The effective discharge of those duties depends on individuals' confidence that
14 their confidential communications with their labor organization representatives in the course of
15 securing representation and representation will be protected against disclosure, and that labor
16 organizations' internal deliberations concerning their organizational and representational duties
17 be protected against disclosure so that unions may engage in the balancing that is necessary to
18 carry out their duty to all members and individuals they seek to represent.

19 (4) To effectuate the public policy favoring effective labor-management relations, it
20 is necessary to protect confidential labor organization–individual communications in the course
21 of union representation against disclosure, except in the rare circumstances where disclosure
22 appears necessary to prevent injury from a crime or when legal claims are brought in formal
23 proceedings against unions. The creation of a union–individual privilege is accordingly in the
24 best interests of the Commonwealth of Massachusetts.

25 SECTION 2. Chapter 233 of the Massachusetts General Laws is hereby amended by
26 establishing a new section of law, Section 20P, after Section 20O as follows:

27 (a) Definitions. As used in this section, the following words shall have the following
28 meanings unless the context clearly requires otherwise:

29 (1) An “employee” is an individual represented by a labor organization or who is
30 seeking information, services, or assistance from a labor organization, whether or not that
31 individual is a member of a labor organization.

32 (2) A “labor organization” also known as a labor union, is any lawful organization
33 whose primary purposes include the representation of employees in their employment and labor
34 relations with employers, including without limitation labor organizations defined by chapters
35 150A and 150E of the General Laws, 29 U.S.C. § 152(5) and 5 USC § 7103(a)(4), and 45 U.S.
36 151.

37 (3) “Representation” means any action by a labor organization, its employees or
38 agents acting on their own or in concert with employees it represents or seeks to represent with
39 regard to the employees’ employment and labor relations with employers. The subjects of
40 representation include, but are not limited to, organizing and representation at an employer or in
41 an industry or trade, grievances and other labor disputes, collective bargaining, protest or
42 petitioning activity, work stoppages and strikes, and dispute resolution, and any other action to
43 advance employees’ working conditions, wages, rates of pay, hours of employment, or employer
44 policies, practices and procedures impacting the same.

45 (4) A “representative of the labor organization” is an employee or agent of the labor
46 organization who assists the labor organization in providing services to an employee.

47 (5) A “communication” includes any oral, written, or electronic communication or
48 document containing such communication made in the course of or concerning, regarding or
49 relating to representation. A communication between a labor organization, its employees or
50 agents and an employee, or a communication between labor organization representatives for the
51 benefit of an employee is “confidential” if it is not intended to be disclosed to third persons other
52 than those to whom disclosure is made to obtain or provide services to the employee, and those
53 reasonably necessary for the transmission of the communication.

54 (b) General Rule of Privilege. Neither a labor organization representative nor an
55 employee the labor organization seeks to represent, represents or has represented shall be
56 examined as to, or be required to disclose, any confidential communication between an employee
57 and labor organization representative or between union representatives made in the course of
58 labor representation.

59 (1) An employee has a privilege to refuse to disclose and to prevent others from
60 disclosing confidential communications made for the purpose of obtaining assistance from a
61 labor organization with regard to confidential communications:

62 (i) between the employee and the labor organization or its representatives,

63 (ii) between the employee's attorney and the labor organization or its representatives, or

64 (iii) between labor organization representatives in considering or acting upon a request
65 for assistance from an employee.

66 (2) A labor organization has a privilege to refuse to disclose and to prevent others
67 from disclosing confidential communications made for the purpose of assisting an employee with
68 regard to confidential communications:

69 (i) between the employee and the labor organization or its representatives,

70 (ii) between the employee's attorney and the labor organization or its representatives, or

71 (iii) between labor organization representatives in considering or acting upon a request
72 for assistance from an employee.

73 (c) Who May Claim the Privilege. The privilege may be claimed by the employee, the
74 labor organization, its employees and agents.

75 (d) Exceptions. The Labor Organization-Employee privilege does not apply to the
76 following:

77 (1) Furtherance of Crime or Fraud. If the services of the labor organization were
78 sought or obtained to commit or to plan to commit what the employee knew or reasonably should
79 have known was a crime or fraud or is the examination or disclosure appears necessary to
80 prevent the commission of a crime that is likely to result in a clear, imminent risk of serious
81 physical injury or death of a person;

82 (2) Breach of Duty Of Fair Representation. As to a communication relevant to an
83 issue of breach of duty of fair representation between an employee and a labor organization; or

84 (3) Document Attested by a Labor Organization's Representative. As to a
85 communication relevant to an issue concerning an attested document to which the labor
86 organization's representative is an attesting witness;

87 SECTION 3: Massachusetts General Laws chapter 150E shall be amended to add a new
88 section, Section 16, after Section 15, which shall state as follows:

89 The privilege established by G.L. c. 233 § 20P shall apply to all labor organizations
90 covered by this chapter and in all proceedings authorized by this chapter.

91 SECTION 4: Massachusetts General Laws chapter 150A shall be amended to add a new
92 section, Section 13, after Section 12, which shall state as follows:

93 The privilege established by G.L. c. 233 § 20P shall apply to all labor organizations
94 covered by this chapter and in all proceedings authorized by this chapter.

95 SECTION 5. Massachusetts General Laws Chapter 161A, Section 25 shall be amended
96 by adding after the last sentence in the Section a new paragraph stating:

97 The privilege established by G.L. c. 233 § 20P shall apply to all labor organizations
98 covered by this chapter and in all proceedings authorized by this chapter.

99 SECTION 6. Massachusetts General Laws Chapter 161A, Section 26 shall be amended
100 by adding after the last sentence in the Section a new paragraph stating:

101 The privilege established by G.L. c. 233 § 20P shall apply to all labor organizations
102 covered by this chapter and in all proceedings authorized by this chapter.

103 SECTION 7. Massachusetts General Laws Chapter 15D, Section 17 shall be amended by
104 the following sentence at the end of sub-section (b) a new section as follows:

105 The labor organization-employee privilege established by G.L. c. 233 § 20P shall apply
106 to all representation activities covered and in all proceedings authorized by sub-section or 17A,
107 17G and 17J of Massachusetts General Laws Chapter 180.

108 SECTION 8. This act shall become effective January 1, 2026.