HOUSE DOCKET, NO. 2409 FILED ON: 2/18/2011

HOUSE . . . . . No. 3536

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas A. Golden, Jr.

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 identity theft and online predators on the Internet.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas A. Golden, Jr.	*16th Middlesex*
Stephen L. DiNatale	*3rd Worcester*
Martin J. Walsh	*13th Suffolk*

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By Mr. Golden of Lowell, a petition (accompanied by bill, House, No. 3536) of Thomas A. Golden, Jr., and others for legislation to protect consumers using the Internet from identity theft and online predators. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to identity theft and online predators on the Internet.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to fight online identify theft and online predators, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 25C of the General Laws is hereby amended by adding the following section:-

Section 8. As used in this act, the following words shall, except as otherwise provided, have the following meanings:-

"Internet service provider", a facilities based provider or other entity that provides consumers with the ability to access the Internet in exchange for consideration such as through a paid subscription or through an agreement to view specific ads or content in exchange for Internet access."Internet service provider" shall not include an entity that provides wireless access to the Internet through an unlicensed spectrum.

10 Fees paid by the Internet service providers shall be remitted to the department of revenue
11 quarterly on or before the twentieth day of the first month of the next succeeding quarter. The
12 Internet service provider shall pay 15 cents per month to the Internet Crimes Investigation Fund,
13 established by section 8 of chapter 29 be permitted to deduct and retain 3 per cent of the fees
14 collected annually for each subscriber as an administration fee.

15 The internet service provider shall not charge the consumer for said fee paid to the
16 department of revenue. Any such charge shall be an unfair and deceptive act pursuant to chapter
17 93A.

18 No Internet service provider shall be required to provide refunds nor produce any records
19 to substantiate any claim for refund.

20 The consumer shall produce all necessary records to support the claims.

21 Beginning on or after July 1, 2011, the state treasurer shall deposit an amount equal to the
22 monies received by the state treasury from the Internet service the Internet Crimes Investigation
23 Fund, established by section 8 of chapter 29.

24 The state police shall conduct through the

25 Internet and specially designed to protect citizens of the commonwealth accessing the
26 Internet from criminals operating through the Internet. These activities include the

27 following:

28 (a) Locating, investigating, and bringing to justice those who would commit sex
29 crimes upon children whom those persons locate through the Internet, communicate with through
30 the Internet, or both.

31 (b) Locating, investigating, and bringing to justice those persons who use the Internet
32 to facilitate the trading of images of pornography involving children.

33 (c) Locating, investigating, and bringing to justice those persons who use the Internet
34 to facilitate fraudulent schemes in an effort to defraud our citizens with Internet access of money,
35 goods, services, and other things.

36 Computer forensic examination services of computers and other electronic devices
37 associated with allegations of crimes committed against or attempted against victims of the
38 commonwealth as a direct result of their having had Internet access.

39 Proactive training of local law enforcement in the proper handling of crimes perpetrated
40 or attempted against citizens of the commonwealth as a result of these victims having had
41 Internet access.

42 The attorney general shall submit an annual report to the general court on or before 30
43 days prior of the regular session of the general court on the status of the Internet Crimes
44 Investigation Fund, established by section 8 of chapter 29, including the amounts deposited into
45 the fund and performance data related to expenditures out of the fund.

46 SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after
47 section 2BBBB the following section:-

48 Section 2CCCC. There shall be established and set upon the books of the commonwealth
49 a separate fund to be known as the Internet Crimes Investigation Fund. Amounts credited to the
50 fund shall be administered by the department of revenue which shall determine that the
51 funds are used for activities consistent with the purpose of this act. Such fund shall be a separate

52 and expendable administered by said department. There shall be credited to the fund any source
53 of monies that are equal to 15 cents per month for each consumer account billed for Internet
54 access. This fee shall be paid by the Internet access service provider for each account billed and
55 remitted to the department of revenue. Such fee shall be collected by the Internet access service
56 provided from each account billed and remitted to the department of revenue. No Internet service
57 provider shall be liable to any person on any claim arising from or in any way related to the
58 collection or remittance of the fee imposed pursuant to this section, including, but not limited to,
59 refunds of the fee to a consumer, failing to identify and collect the fee, or any use of the fee.
60 Revenues credited to the fund shall be used, subject to appropriation, for the state police to fight
61 online identify theft and online predators. The monies in the fund shall be invested by the
62 treasurer in the same manner as the monies in the General Fund, and all interest earned shall be
63 deposited and credited to the fund. All unexpended or unencumbered monies remaining in the
64 fund at the end of the fiscal year shall remain in the fund.