

**SENATE . . . . . No. 1575**

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The Commonwealth of Massachusetts

PRESENTED BY:

***James B. Eldridge***

*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 enhancing access to electronic public records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jason M. Lewis</i>	<i>31st Middlesex</i>
<i>William N. Brownsberger</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, and Franklin</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Karen E. Spilka</i>	
<i>Martha M. Walz</i>	<i>8th Suffolk</i>

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1575) of Jason M. Lewis, William N. Brownsberger, Sal N. DiDomenico, Jennifer E. Benson and other members of the General Court for legislation to enhance access to electronic public records. State Administration and Regulatory Oversight.

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The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act enhancing access to electronic public records.

*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. Clause Twenty-sixth of Section 7 of Chapter 4 of the General Laws, as  
2 appearing in the 2008 Official Edition, is hereby amended by inserting after the word  
3 “characteristics,” the following words:-- including public record information which may be  
4 separately retrieved from an electronic record,

5           SECTION 2. Chapter 66 of the General Laws as so appearing is hereby amended by  
6 inserting after Section 3 the following new section:--

7           Section 3A. When designing or acquiring an electronic recordkeeping system or  
8 database, any person having custody of a public record shall ensure that such system or database  
9 is capable of providing data in a common format such as, but not limited to, the American  
10 Standard Code for Information Interchange or the Uniform Character Set Transformation  
11 Format. When records maintained electronically include both public record information and  
12 exempt information that may be withheld from public inspection, the custodian shall design its

13 information storage and retrieval methods in a manner that permits the segregation and retrieval  
14 of public record information in order to provide maximum public access. No custodian of a  
15 public record may enter into a contract for the storage of electronic records containing public  
16 record information that impairs or restricts public access to those records.

17 SECTION 3. Section 10 of Chapter 66 of the General Laws as so appearing is hereby  
18 amended by inserting after the word "record," in line 4, the following:-- including public record  
19 information which may be separately retrieved from an electronic record,

20 SECTION 4. Section 10 of Chapter 66 of the General Laws is hereby further  
21 amended by inserting at the end thereof the following paragraph:--

22 (e) If a public record or public record information is available in electronic form, the  
23 custodian shall, at the option of the requester, provide it in that form. In making a record  
24 available to a requestor, the custodian shall provide the record in any format requested if the  
25 record is readily reproducible in that format. If a request does not specify the format for  
26 producing electronically stored information, the custodian shall provide the record information in  
27 a common format that is reasonably usable. For public records in electronic form, a custodian  
28 may charge the requestor only the actual cost of any storage devices or materials provided to the  
29 requestor. When the custodian's information technology capabilities are inadequate to prepare a  
30 copy of the record, the custodian may charge the requestor the actual cost of engaging an outside  
31 service to prepare a copy, provided that no fee shall be charged in excess of the hourly salary  
32 attributed to the lowest paid state employee who has the necessary skill required to prepare such  
33 a copy. Any programming necessary to retrieve a public record or public record information and  
34 provide the record or record information in the requested format, or to allow the record or record

35 information to be read or printed, shall not be deemed to be the preparation or creation of a new  
36 record.

37 SECTION 5. Chapter 66 of the General Laws as so appearing is hereby amended by  
38 inserting after Section 10 the following new section:--

39 Section 10A. (a) Every state agency, as defined by Chapter 66A, that has the ability  
40 to provide public internet access, at no charge, to a public record in its custody, shall make  
41 reasonable efforts to do so. A custodian state agency shall be required to provide public internet  
42 access, at no charge, to the following types of public records in searchable format: (i) final  
43 opinions, decisions, orders, or votes from agency proceedings; (ii) annual reports; (iii) reports to  
44 the General Court; (iv) notices of regulations proposed under chapter 30A; (v) notices of  
45 hearings; (vi) winning bids for public contracts; and (vii) any public record information of  
46 significant interest to the general public including, but not limited to, public record information  
47 which is the subject of multiple public records requests.

48 (b) Every state agency shall prepare and maintain reference materials to enhance  
49 access to public records in its custody and enable requestors to make informed requests,  
50 including: (i) a reasonably detailed document classification scheme, to be updated annually,  
51 outlining categories of records maintained by the agency, whether or not open for public  
52 inspection,; and (ii) an index and description of all major databases, document management  
53 applications, and electronic recordkeeping and locator systems maintained by the agency,  
54 including an indication of which records are publicly accessible, at no charge, on the internet.  
55 Each state agency that maintains a website shall post such reference materials on its website.

56 (c) The secretary of each executive office shall, on or before January 1, 2012,  
57 promulgate rules and regulations to carry out the purposes of this act which shall be applicable to  
58 all agencies, departments, boards, commissions, authorities, and instrumentalities within each of  
59 said executive offices subject to the approval of the secretary of administration and finance, in  
60 consultation with the chief information officer of the commonwealth. Any agency not within any  
61 such executive office shall be subject to the regulations of the secretary of administration and  
62 finance. The attorney general, the state secretary, the state treasurer and the state auditor shall  
63 adopt applicable regulations for their respective departments on or before January 1, 2012.