

HOUSE No. 1408

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 passage of the accompanying bill:

An Act requiring the disclosure of obscene materials.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas A. Golden, Jr.	16th Middlesex
Barbara A. L'Italien	18th Essex
Denise Provost	27th Middlesex
Geraldo Alicea	6th Worcester
Elizabeth Poirier	14th Bristol
Bruce E. Tarr	First Essex and Middlesex
Cheryl A. Coakley-Rivera	10th Hampden
Scott P. Brown	Norfolk, Bristol and Middlesex
Stephen L. DiNatale	3rd Worcester
James E. Timilty	Bristol and Norfolk
Kevin J. Murphy	18th Middlesex
Susan C. Fargo	Third Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3872 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT REQUIRING THE DISCLOSURE OF OBSCENE MATERIALS.

*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.** Section 29B of chapter 272 of the General Laws, as appearing in the 2004 Official Edition,
2 is hereby amended by adding the following subsection:-

3 (f) Any commercial film and photographic print processor or computer technician who has knowledge of
4 or observes, within the scope of such person's professional capacity or employment, any film,
5 photograph, video tape, negative, or slide, or any computer file, recording, cd-rom, magnetic disk
6 memory, magnetic tape memory, picture, graphic, or image that is intentionally saved, transmitted or
7 organized on hardware or any other means and whether directly viewable, compressed or encoded, that he
8 reasonably believes to be depicting a real child under the age of 18 engaged in an act of sexual conduct,
9 sexual performance, or in a sexually explicit posture, shall immediately or as soon as reasonably
10 possible, report such instance of suspected child abuse or child pornography to the local police and shall
11 prepare and send a written report of the incident with an attached copy of such material, if possible,
12 within 36 hours after receiving the information concerning the incident.

13 The following shall apply:

14 (i) the identity of the computer technician shall be confidential, subject to disclosure only with his consent
15 or by judicial process; and

16 (ii) provided the computer technician has acted in good faith, he shall be immune from civil liability that
17 might otherwise be incurred by his actions. This immunity extends only to acts described in this
18 subsection.

19 For purposes of this subsection "commercial film and photographic print processor" shall mean any
20 person who develops exposed photographic film into negatives, slides, or prints, or who makes prints
21 from negatives or slides, for compensation. This term shall also include any employee or agent of such a

22 person but shall not include a person who develops film or makes prints for a public agency; and
23 “commercial computer technician” shall mean any person who repairs, installs, or otherwise services any
24 digital storage media including, but not limited to, any component part, device, memory storage or
25 recording mechanism, auxiliary storage, recording or memory capacity, or any other materials relating to
26 operation and maintenance of a computer or computer network or system, for compensation. The term
27 shall also include any employee or agent of such person.

28 Any person who violates the provisions of this section, upon conviction, shall be punished by a fine not to
29 exceed \$1000 or by imprisonment not to exceed one year, or both such fine and imprisonment.

30 Nothing in this section shall be construed to require or authorize any person to act outside the scope of
31 such person’s professional capacity or employment by searching for prohibited materials or media.