

SENATE No. 269

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

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 student privacy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Jose F. Tosado</i>	<i>9th Hampden</i>	<i>1/26/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/26/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/26/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/30/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>2/3/2017</i>

SENATE No. 269

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 269) of Patricia D. Jehlen, Jose F. Tosado, Denise Provost, Jay R. Kaufman and other members of the General Court for legislation to protect student privacy. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 298 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act protecting student privacy.

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

1 Chapter 71 of the General Laws is hereby amended by inserting after section 94 the
2 following section:-

3 Section 95. (a) For the purposes of this section, the following words shall have the
4 following meanings:-

5 “Personal device”, a technological device owned, leased, or lawfully possessed by a
6 student that was not provided to the student by the school or school district.

7 “Technological device”, any computer, cellular phone, smartphone, digital camera, video
8 camera, audio recording device, or other electronic device that can be used for creating, storing,
9 or transmitting information in the form of electronic data.

10 “Third party”, any person or entity other than a school employee, student, or parent or
11 legal guardian of a student.

12 (b) Educational institutions shall have the discretion to limit or prohibit the possession or
13 use of certain personal devices by students on school property. A violation of such a limitation
14 or prohibition shall not be the sole basis for a reasonable suspicion to access the device.

15 (c) No school employee or third party shall access any data or other content input into or
16 stored upon a personal device of a student, notwithstanding any violation of school code of
17 conduct provisions regarding possession or use of such device, unless:

18 (1) A school employee has a reasonable suspicion that a student has violated or is
19 violating a separate provision of the code of conduct and that the device contains evidence
20 thereof, subject to the following limitations: (i) Searches of shall be conducted only of personal
21 devices located on school property; (ii) Prior to searching a student’s personal device based on
22 reasonable suspicion, the school employee shall document such reasonable suspicion and notify
23 the student and the student’s parent or legal guardian of the suspected violation and the type of
24 data sought to be accessed in searching for evidence of the violation; (iii) searches of a student’s
25 personal device based on reasonable suspicion shall be strictly limited to locating evidence of the
26 particular suspected policy violation; and (iv) where a student is suspected of conduct which is a
27 criminal offense under the general laws, no search shall be undertaken without the authorization
28 of a valid judicial warrant secured in accordance with subsection (c)(2), notwithstanding any
29 suspected violation of the school code of conduct;

30 (2) Authorized by a valid warrant for the search of the device issued pursuant to the
31 requirements of sections 2 through 3A of chapter 276; or

32 (3) Accessing a student's personal device is necessary in response to an imminent threat
33 to life or safety. Within 72 hours of accessing a personal device in response to an imminent
34 threat to life or safety, the school employee or law enforcement official who accessed the device
35 shall provide the student whose device was accessed, the student's parent or legal guardian, and
36 the educational institution a written description of the particular threat and the data accessed.

37 (d) Evidence or information obtained or collected in violation of this section shall not be
38 admissible as evidence in any civil or criminal trial or legal proceeding, disciplinary action, or
39 administrative hearing.