HOUSE DOCKET, NO. 3009 FILED ON: 1/21/2011

HOUSE . . . . . No. 2847

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

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:

An Act further defining the dissemination of obscene material.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Eugene L. O'Flaherty	*2nd Suffolk*
Carlo Basile	*1st Suffolk*
Jennifer E. Benson	*37th Middlesex*
John J. Binienda	*17th Worcester*
David Paul Linsky	*5th Middlesex*
Cory Atkins	*14th Middlesex*
Cheryl A. Coakley-Rivera	*10th Hampden*
Jennifer L. Flanagan	*[District]*
Denise Andrews	*2nd Franklin*
Brian M. Ashe	*2nd Hampden*
Denise Provost	*27th Middlesex*

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By Mr. O'Flaherty of Chelsea, a petition (accompanied by bill, House, No. 2847) of Eugene L. O'Flaherty and others relative to further defining the dissemination of obscene material. The Judiciary.

The Commonwealth of Massachusetts

An Act further defining the dissemination of obscene material.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make for the immediate protection of minors, 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.Section 28 of Chapter 272 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking the section in its entirety and replacing it with the following:-

Section 28. Whoever purposefully disseminates to a person or persons he knows or believes to be a minor any matter harmful to minors, as defined in section thirty-one, knowing it to be harmful to minors, and or has in his possession any such matter with the intent to disseminate the same to a person or persons he knows or believes to be a minor , shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years, or by a fine of not less than one thousand nor more than ten thousand dollars for the first offense, not less than five thousand nor more than twenty thousand dollars for the second offense, or not less than ten thousand nor more than thirty thousand dollars for the third and subsequent offenses, or by both such fine and imprisonment. A person who disseminates an electronic communication does not violate this section unless he purposefully directs the communication to a person or persons he knows or believes to be a minor. A prosecution commenced under this section shall not be continued without a finding nor placed on file. It shall be a defense in any prosecution under this section that the defendant was in a parental or guardianship relationship with the minor. It shall also be a defense in any prosecution under this section if the evidence proves that the defendant was a bona fide school, museum or library, or was acting in the course of his employment as an employee of such

20 organization or of a retail outlet affiliated with and serving the educational purpose of such
21 organization.