

Initiative Petition for a Constitutional Amendment for Privacy

Be it enacted by the People, and by their authority:

SECTION 1. The following constitutional amendment shall be added as a new article to the 'Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts' in the 'Part the First':-

The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest, of which convenience and financial returns have no part. Nor shall any compelling state interest be lightly provided, without evidence and justification. The right to privacy is the right to ambient privacy, not only right to privacy in one's home. For transgressions on this right, the people shall have a private right of action which cannot be replaced by arbitration.

To protect this right, the state shall limit the gathering of data by businesses and the state to that necessary to conduct business. Data necessary to conduct business shall not be used or shared for secondary purposes, but shall be retained only as long as needed for the business or transaction at hand. If a business desires to retain data, then the business must obtain permission for a legitimate interest fully expressed to the individual who must be of sound mind and of an age to consent, at minimum eighteen, and who may revoke the consent at any time. Any utility or other necessary service may not require the loss of privacy as a condition of service, except where a compelling state interest exists. In the same way, a business must request permission to harvest data to create a profile of any party.

Data is an expansive term, that includes a wide range of new types of identifying data such as but but limited to location-tracking, photographs, and biometric data, which includes unique biological or behavioral identifiers such but not limited to voice audio, fingerprints, gait recognition, and keystroke dynamics as well as observed and inferred data. The state shall require that biometric data shall not be a condition of employment or access to utilities and other necessary services, with the exception that fingerprinting for employment when a reasonable justification can be provided.

The legislature shall take affirmative steps to implement this right., creating procedures, statutes, and regulations that protect privacy. However, this right to privacy shall not be construed to limit access to public records and meetings as provided by law, nor to limit the public's access to information pertinent to any public official's conflicts of interest, nor to limit basic contact information as in the white or yellow pages, nor to limit archiving and review of published materials, nor to limit the liberty of the press.

SECTION 2. The provisions of this act are severable, and if any clause, sentence, paragraph or section of this law or an application thereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid and such clause, sentence, paragraph, section or application shall be reformed and construed so that it would be valid to the maximum extent permitted.

SECTION 3. This constitutional amendment shall take effect immediately upon passage.

Q.P.
ME *fc* *TERP* *TMC* *CBAS* *LSL* *DAU* *TAM* *ARZ* *BB.* *DMJ.* *DB*