

HOUSE No. 1877

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus

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 relative to the use of administrative subpoenas to obtain telephone and internet records without judicial review.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>2/10/2021</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/11/2021</i>

HOUSE No. 1877

By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 1877) of William M. Straus and Brian W. Murray relative to the use of administrative subpoenas to obtain telephone and internet records without judicial review. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1567 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the use of administrative subpoenas to obtain telephone and internet records without judicial review.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate administrative subpoenas, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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 17B of chapter 271 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting at the end thereof the following:-

3 On or before the first of March each year, the attorney general and each district attorney
4 shall produce a report which shall indicate the following information for the previous calendar
5 year:

6 a) the number of administrative subpoenas issued by the office, broken down by
7 statutory offense being investigated;

8 b) the names of the common carriers and service providers subpoenaed, including
9 the number of subpoenas directed to each;

10 c) the number of administrative subpoenas seeking transactional records spanning
11 time periods less than 1 day, between 1 day and 1 week, between 1 week and 30 days, and
12 greater than 30 days;

13 d) the number of administrative subpoenas requesting the following categories of
14 information: (i) information that directly or incidentally reveals the physical location of the
15 subscriber; (ii) information that reveals, or can readily be used to reveal, the identity of parties
16 other than the subscriber; (iii) information that reveals the frequency of communications between
17 two or more persons; (iv) call detail logs or other records containing information about who the
18 subscriber called, when, and the duration of the calls; or (v) banking, credit card, or other
19 financial records.

20 e) the number of criminal prosecutions, charged by complaint or indictment,
21 initiated after records were obtained in response to an administrative subpoena;

22 f) the number of criminal convictions secured after records obtained via
23 administrative subpoena, or information derived from such records, were introduced in evidence;
24 and

25 g) the number of motions filed to quash administrative subpoenas, and the number of
26 such motions that were successful.

27 The reports from the attorney general and each district attorney shall be filed with the
28 clerks of the Senate and the House of Representatives and with the executive office for

29 administration and finance, which shall post them on the Commonwealth's open data website to
30 make them available as a public record. In the event of failure to comply with the provisions of
31 this reporting provision, any person may compel compliance by means of an action of mandamus
32 in superior court. If the court finds that such failure to comply represented a willful violation of
33 this section, it may award the plaintiff the reasonable costs of litigation and attorney fees.