

H.R., March 9, 2006 (cont.)
Sent to the Senate for
further amendments.

SENATE, MARCH 16, 2006
Rules suspended; Senate
concurs in the further House
amendment with still fur-
ther amendments (Barrios-
Wilkerson-Montigny)

H.R., March 16, 2006.
House concurred in the Senate
still still further amendments with
a still still still further amendment.

*Senate March 16, 2006
Senate concurred*

Senate No. 2292

W&M amended
BILL to reduce gang violence
in the Commonwealth.

SENATE, OCTOBER 19, 2005 - RECOM
(W&M)ND for S. 2133 - rules
suspended- Substituted for Senate,
No. 2133 & ordered 3d.

EMERGENCY PREAMBLE

Senate Committee on BTR
Correctly drawn
Stephen M. Benson
For the Committee

OCT 20 2005 - Rd. 3d. - Amended
(Baddour) - Engrossed (39 years to
0 days).

H. R., October 24, 2005.
Read; and referred, under Rule 33, to
the committee on Ways and Means.

Steven J. James, Clerk

January 9, 2006
Read and referred, under Rule 7A, to the
committee on Steering, Policy and Scheduling,
with an amendment H. 4615 new text
pending. *Steven J. James*, Clerk.

January 9, 2006, Reported; and placed
in O.D. for a second reading. With an
amendment H. 4615 new text pending
Steven J. James
For the Committee.

Jan. 10, 2006, - Read 2nd., amended
(as recom. by H.W&M); and ord. 37

Correctly drawn.

Steven J. James for BTR

Rules suspended, Read 3rd.,
amendments adopted to House text
[See H4626 for text amendment] and
engrossed (years 151, days 2)

SENATE, FEBRUARY 15, 2006 -
Rules suspended - Senate concurred
in House amendment with further
amendments. (Barrios-Hart-Wilkerson)

H.R., March 9, 2006.
Rule 35 suspended (deVacedo); and

Correctly drawn.

Steven J. James

House concurred in the Senate further
amendments with still further amendments
(continued)

[SIMILAR MATTER FILED DURING PAST SESSION —
SEE SENATE HOUSE NO. OF ...]



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND AND ~~FIVE~~ ⁽⁶⁾

AN ACT ^{ing} TO REDUCE GANG VIOLENCE ~~IN THE COMMONWEALTH~~

check
page

[0]

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

[A] SECTION 1. The General Laws are hereby amended by inserting after Chapter 258C the
following ~~new~~ chapter:-

Chapter 258D ←

WITNESS PROTECTION.

Section 1. As used in this chapter, the following words shall have the following
meanings, unless the context otherwise requires:-

“Board”, the witness protection board as established in section ~~two~~ ².

“Defense Counsel”, a salaried public counsel, bar advocate, or private attorney retained by or
on behalf of a criminal defendant.

employees of the committee
for public services

"Family member", a spouse, child, stepchild, sibling, parent, stepparent, dependent, as defined in section one of chapter ~~two hundred and fifty-eight~~²⁵⁸ C, or legal guardian of a victim, unless such family member has been charged in relation to the crime against the victim.

"Law enforcement agency", ~~any~~ police department ~~in the commonwealth~~ or any of its political subdivisions.

"Prosecutor", the attorney general, ~~assistant attorneys general~~^{can}, district attorney, assistant district attorneys, police prosecutors, other attorneys specially appointed to aid in the prosecution of a case, ~~or law students~~^{or} approved for practice pursuant to and acting as authorized by the rules of the supreme judicial court.

"Witness", ~~any~~ person who has any information that would be relevant or material to a criminal investigation.

Section 2. There shall be within the ~~Executive Office of Public Safety~~ a witness protection board, to consist of ~~seven~~⁷ members who shall serve without compensation. Notwithstanding ~~any provision of section six~~⁶ of chapter ~~two hundred and sixty-eight~~²⁶⁸ A to the contrary, the board shall consist of the secretary of public safety who shall be the chairman, the attorney general or his designee, ~~two~~² district attorneys who shall be appointed by the Massachusetts District Attorneys' Association, the colonel of ~~the~~ state police, a chief of police who shall be appointed by the Massachusetts Chiefs of Police Association, and an attorney who shall be appointed by the ~~Committee for Public Counsel Services~~. The board shall ~~by~~^{by} majority vote of its members, appoint an executive director who shall serve, subject to appropriation, at such rate of compensation as the board directs for a term of ~~three~~³ years unless removed for cause

by a vote of ⁴~~four~~ members of the board. The executive director, subject to appropriation, shall have the power to hire such staff, as is needed to fulfill the powers and duties of the board. The executive director shall have such other powers and duties as the board may delegate to him. The ~~provisions of chapter thirty-one~~³¹ shall not apply to the executive director or any employee of the board.

Section 3. (a) A witness protection program shall be established to assist in the efforts of state, county and local law enforcement agencies (in their efforts) to protect the health, safety, and welfare of witnesses and their family members and to reimburse those agencies for the costs of such efforts, subject to appropriation.

(b) The board shall promulgate regulations governing the witness protection program ~~as described in this chapter,~~ shall develop and issue appropriate guidelines to implement this chapter, shall establish procedures to maximize federal funds for witness protection services, and shall investigate methods to improve witness protection efforts. The board shall review requests from prosecutors and other law enforcement agencies for witness protection services and shall assist the prosecutor with the efforts of state, county and local agencies to secure witness protection services. The board shall, subject to appropriation, reimburse the prosecutor or other law enforcement agency for any witness protection related costs that are in compliance with the regulations and guidelines established by the board.

(c) If a (prosecutor) ~~prosecuting officer~~ or other law enforcement agency determines that there exists an imminent threat to the safety of a witness ~~exists~~, he shall take any temporary action he determines is necessary to protect the safety of a witness pursuant to section 4(a) through (f) of this chapter. The ~~prosecuting officer~~ or law enforcement agency shall inform the witness protection

(prosecutor)

~~commission~~ ^(board) of the action taken and the related costs as soon as is practicable. Any such costs, which would otherwise be in compliance with the regulations and guidelines established by the board pursuant to this section, may be reimbursable to the ~~prosecuting officer~~ ^(prosecutor) or law enforcement agency.

Section 4. Protection services provided to a witness or family member may include, but shall not be limited to:

- (a) armed protection or escort, marked or unmarked surveillance or periodic visits or contact by law enforcement officials prior, during or subsequent to a criminal proceeding;
- (b) physical relocation to an alternate residence;
- (c) housing expenses;
- (d) transportation or storage of personal possessions;
- (e) basic living expenses
- (f) ^{the filing of a} petition for a protective order on any individual identified as a threat to a witness.

Section 5. (a) A witness who feels that ~~they~~ ^(he) or a family member is endangered may request protection from a law enforcement officer, a prosecutor, a victim witness advocate or the board. All requests shall be forwarded to the board and the relevant prosecutorial agency as soon as is practicable.

(b) If a witness, after being offered protective services under this section, declines to receive such services, the ~~prosecuting officer~~ ^(prosecutor) shall request that the witness make such refusal in writing.

(c) Any protective services provided to a witness or family member under this section shall be made known to defense counsel pursuant to Rule 14 of the Massachusetts Rules of

Criminal Procedure governing disclosure of promises and inducements.

Section 6. Nothing in this ~~section~~ ^(chapter) shall be construed as creating a right, entitlement, or cause of action on behalf of any person against any public employee, public agency, the commonwealth, or any agency responsible for the provision of services set forth in this ~~section~~ ^(chapter). In addition, the commonwealth, its officers and employees, and law enforcement personnel shall have immunity from suit based on any decision, act, or omission related to this chapter.

~~SECTION 7A~~ ⁷. Commencing one year after the effective date of this chapter, the board shall make an annual report to the general court, including the House and Senate Ways and Means Committees and the Joint Committee on ~~Criminal Justice~~ ^(the judiciary), no later than January 1 of each year on the fiscal and operational status of the program.

SECTION ~~7A~~ ⁷. Section 10 of chapter 269 of the General Laws, as appearing in the ~~2002~~ ²⁰⁰⁴ Official Edition, is hereby amended by striking ~~paragraph (h)~~ ^(b) and inserting in place ~~the~~ ^(thereof) following paragraph:-

(h) (1) Whoever owns or possesses a firearm, rifle, shotgun or ammunition without complying with the provisions of section 129C of chapter 140 shall be punished by imprisonment in a jail or house of correction for not more than ~~two~~ ² years or by a fine of not more than \$500. A second violation of this ~~paragraph~~ ^(subparagraph) shall be punished by imprisonment in a jail or house of correction for not more than ~~two~~ ² years or by a fine of not more than \$1,000 or both. A person committing a violation of this ~~subsection~~ ^(subparagraph) may be arrested without a warrant by any officer authorized to make arrests.

(2) Whoever transfers possession of a firearm, rifle, shotgun or ammunition in violation of the second paragraph of section 129C of chapter 140, shall be punished by imprisonment in a

jail or house of correction for not less than ²two years nor more than ~~two~~ ^{2 1/2}and one half years, or in the state prison for not less than ²two years nor more than ⁵five years;

(3) ~~Any person who~~ ^{Whoever} leaves a firearm, rifle, shotgun, or ammunition unattended with the intent to transfer possession of ^{such}the firearm, rifle or shotgun to any person ~~not~~ licensed under section 129C ~~of chapter 140 or section 131 of chapter 140~~ for the purpose of committing a crime or concealing a crime shall be punished by imprisonment in a jail or house of correction for not more than ^{2 1/2}two and one half years.

SECTION 4. ~~Chapter 268 of the of the General Laws, as appearing in the 2002 Official Edition, is hereby~~ ^{amended} by striking ~~section 1A~~ ^{out} and inserting in place thereof the following ~~new~~ section:-

Section 1A. (a) No written statement required by law shall be required to be verified by oath or affirmation before a magistrate if it contains or is verified by a written declaration that it is made under the penalties of perjury. Whoever signs and issues ^{any}such written statement containing or verified by such a written declaration shall be guilty of perjury and subject to the penalties thereof if such statement is willfully false in a material matter.

(b) An indictment or complaint for ^(a)violation of this section alleging that, in any proceedings before or ancillary to ~~any~~ court or grand jury, the defendant under oath has knowingly made ~~two or more~~ declarations, which are inconsistent to the degree that ~~one~~ of them is necessarily false, need not specify which declaration is false if: (1) each declaration was material to the point in question, and (2) at least ¹~~one~~ declaration was made within the period of the statute of limitations for the offense charged under this section.

INSERT SEC 7A

further

(not sound a valid firearm identification card under section 189B of chapter 140B)

at least 2

7A
SECTION 7A. Section 28 of chapter 276 of the General Laws, as appearing in the 2004 Official Code of Regulations, is hereby amended by adding the following paragraph:

Any officer authorized to serve criminal process may arrest, without a warrant, any person whom the officer knows is committing a violation of any term of his probation in public view. The terms of probation for any individual shall be readily accessible to the officer through the board of probation screen in the criminal justice information system.

has committed

management

(c) In ~~any~~ prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established ~~sufficient for conviction~~ by proof that the defendant, while under oath, made irreconcilably contradictory declarations material to the point in question. It shall be a defense to an indictment or information made pursuant to ~~the first sentence of~~ this subsection that the defendant at the time he made each declaration believed the declaration was true.

(d) Where, in the same continuous court or grand jury proceeding in which a declaration is made, the person making the declaration admits such declaration to be false, such admission shall bar prosecution under this section if, at the time the admission is made, the declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed.

of the General Laws, as appearing in the 2004 Official Edition,

SECTION ~~4~~³. Section 1 of chapter 268, ~~as so appearing~~, is hereby amended by striking ~~lines 1 through 6, inclusive.~~

out the first sentence

SECTION ~~3~~⁶. Said chapter 268, as so appearing, is hereby further amended by inserting ~~the following section~~^{the following section}

after section 13C

disseminates

disseminates

Section 13D. (a) Whoever knowingly ~~distributes~~ or possesses with intent to ~~distribute~~ any transcript of grand jury testimony or any essentially verbatim description of grand jury testimony without a legitimate lawful purpose or without authorization of court, shall be punished by a fine of not more than ~~one thousand dollars~~^{\$1,000} or by imprisonment in a jail or house of correction for not more than ~~two~~² years, or both.

disseminates

disseminates

(b) Whoever knowingly ~~distributes~~ or possesses with intent to ~~distribute~~ any transcript of grand jury testimony or any essentially verbatim description of grand jury testimony without a

legitimate lawful purpose and with the intent to influence, impede, obstruct, delay, frighten, or otherwise interfere with ~~any~~ criminal proceeding, with ~~any~~ victim of a crime, with ~~any~~ witness or juror in any stage of a trial, grand jury, or other criminal proceeding, or with ~~any~~ person furnishing information to a criminal investigator relating to a violation of ~~any~~ criminal statute shall be punished by imprisonment in a jail or house of correction for not more than ~~two and one-half~~ ^{2 1/2} years or in the state prison for not more than ~~five~~ ⁵ years, or a fine of not more than ~~five~~ ^(\$5,000) thousand dollars, or both.

(c) Whoever knowingly possesses ~~any~~ transcript of grand jury testimony or any essentially verbatim description of grand jury testimony, without a legitimate lawful purpose or without authorization of court, shall be punished by a fine of not more than ~~five hundred~~ ⁵⁰⁰ dollars or by imprisonment in a jail or house of correction for not more than ~~one~~ ¹ year, or both.

(d) A person performing an official function in relation to the grand jury may disclose a grand jury transcript ^(or) of description thereof pursuant to Massachusetts Rule of Criminal Procedure 5 or Federal Rule of Criminal Procedure 6.

(e) An attorney representing a defendant in a criminal proceeding, who receives a grand jury transcript or description thereof related to that proceeding from a prosecutor, may provide such grand jury transcript or description to his client or ~~any~~ investigator employed by that attorney or another attorney employed by his client, unless ~~such~~ ^{the} transfer would be in violation of a protective order from a court of competent jurisdiction.

(f) Upon motion of the commonwealth, ^(or) courts may enter a protective order preventing a defense attorney from distributing grand jury transcripts to criminal defendants ^(if the prosecutor) provided the prosecution demonstrates that the defendant is accused of a violent crime, as defined in section

121 of chapter 140, and there is a reason to believe, based on specific and articulable facts including, but not limited to, the defendant's past history of violence and the nature of the charges against the defendant, that the defendant poses a threat to a witness or victim. In making a determination as to issuing a protective order ~~under this section~~, the court shall consider whether the defendant has an exceptional need to receive such grand jury transcripts.

(g) ~~Any~~ ^(a) ~~(X)~~ grand jury transcript or ~~(X)~~ document citing or describing grand jury testimony filed with ~~any~~ court shall be filed and maintained under seal, unless the paper is filed in a criminal prosecution for perjury before a grand jury.

~~SECTION 6. Said chapter 268, as so appearing, is hereby further amended by inserting the following section:-~~

Section 13E. (a) ~~Any~~ court with jurisdiction over ~~any~~ delinquency, grand jury, or criminal matter may, after a hearing and within its discretion, issue a protective order for the safety of ~~any~~ victim or witness of gang-related violence, including, but not limited to (1) ~~any~~ order described in section 3 of chapter 209A, or (2) an order to maintain a prescribed geographical distance from any specified victim or witness.

(b) ~~All~~ protective orders issued under this section shall contain in large print at the top of the order a notice that the witness or victim should immediately call the police if ~~any~~ person violates the protective order, the telephone number of the police department where the victim or witness resides and where the victim or witness is employed, and the following statement, in at least 10-point font: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

(c) A violation of a protective order issued under this section may be prosecuted as a violation of an order issued under chapter 209A. Such a violation shall be punishable by a fine

of not more than ^{\$5,000} ~~five thousand dollars~~, or by imprisonment for not more than ^{2 1/2} ~~two and one-half~~ years in a house of correction, or by both such fine and imprisonment. In addition, where a criminal defendant violates a protective order or causes or encourages another person to violate a protective order, a court may revoke a criminal defendant's pretrial release, forfeit his bail, and issue a warrant for his arrest.

(d) An arrest for a violation of a protective order issued under this section may be ^{made} ~~without~~ a warrant upon probable cause whether or not the violation ^{was} ~~is~~ committed in the presence of a law enforcement officer.

SECTION ⁹ ~~7~~. ^(The first paragraph of) Section 58 of chapter 276 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by ^(adding) ~~inserting after the word "bond", in line 43,~~ the following ^(sentence) words:-

^(a) If ~~the~~ justice or clerk or assistant clerk of the district court, ^(ora) ~~the~~ bail commissioner or master in chancery determines it to be necessary, the defendant may be ordered to abide by ^(specific) ~~specified~~ restrictions on personal associations, including but not limited to, avoiding all contact with an alleged victim of the crime and ~~any~~ ^(b) ~~potential witness or witnesses~~ who may testify concerning the offense, as a condition of release.

SECTION ¹⁰ ~~8~~. Section 58B of said chapter 276, as so appearing, is hereby amended by inserting after the words "pursuant to", in line 2, ^(following) ~~the words:-~~ "sections ⁽⁵⁸⁾ ~~fifty-eight~~ or"

SECTION ⁸ ~~7~~. ^(said) Section 10 of chapter 269 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after paragraph (m) the following paragraph:-

(n) Whoever commits an offense set forth in paragraph (a) or paragraph (c) and possesses a firearm containing ammunition shall be punished by imprisonment in ^(a jail or) ~~the~~ house of correction

a jail or

for not more than 2 1/2 years beginning from and after the expiration of the sentence for violation of paragraph (a) or paragraph (c) of this section.

SECTION 13B. ^{5. Sec. 13B} Chapter 268 of the General Laws, is hereby amended by striking out section 13B, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 13B. (a) Whoever, directly or indirectly, willfully:

(1) threatens, attempts, or causes physical injury, emotional injury, economic injury or property damage; or

(2) conveys a gift, offer, or promise of anything of value; or

(3) misleads, intimidates, or harasses,

with the intent to influence, impede, obstruct, delay, harm, punish, or otherwise interfere with

(i) a criminal investigation, grand jury proceeding, trial or other criminal proceeding of

any type; or

(ii) a witness or potential witness at any stage of a criminal investigation, grand jury

proceeding, trial, or other criminal proceeding of any type; or

(iii) a person who is or was aware of information, records, documents, or objects that

relate to a violation of a criminal statute or a violation of conditions or probation, parole or bail;

(iv) a judge, juror, grand juror, prosecutor, police officer, federal agent, investigator, defense attorney, clerk, court officer, probation officer, or parole officer; or

(v) a person who is or was furthering a criminal investigation, grand jury proceeding, trial or other criminal proceeding of any type; or

(6) a person who is or was attending or planning to attend a grand jury proceeding, trial, or criminal proceeding,

shall be punished by imprisonment for not more than ~~2~~^{1/2} and one half years in a jail or house of correction or ~~not more than ten~~¹⁰ years in a state prison, or by a fine of not less than ~~one thousand~~^{\$1,000 now} dollars and not more than ~~five thousand~~^{\$5,000} dollars.

(b) As used in this section, "investigator" shall mean an individual or group of individuals lawfully authorized by a department ^(or) of agency of the federal government, or ~~any~~ political subdivision thereof, or a department ^(or) of agency of the commonwealth, or ~~any~~ political subdivision thereof, to conduct or engage in an investigation of, prosecution for, or defense of a violation of the laws of the United States or of the commonwealth in the course of his official duties.

(c) As used in this section, "harass" shall mean to engage in any act ~~or acts~~ directed at a specific person ~~or persons~~, which act seriously alarms or annoys such person ~~or persons~~ and would cause a reasonable person to suffer substantial emotional distress. Such acts shall include, but not be limited to, an act conducted by mail, electronic mail, internet communication, facsimile communication, or other telephonic or telecommunications device.

(d) A prosecution under this section may be brought in the county in which the criminal investigation, grand jury proceeding, trial or other criminal proceeding took place, or in the county in which the alleged conduct constituting an offense occurred.

SECTION ¹/₁. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth ~~herein~~^{in this section} are hereby appropriated from the General Fund unless specifically designated otherwise ~~herein~~, for the several purposes and subject to the conditions

by imprisonment in a state prison

the term

in this section
specified herein, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2006, such provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of these items.

EXECUTIVE OFFICE OF PUBLIC SAFETY

Gang Prevention Grant Program

8100-0011

For a grant program to be known as the "Senator Charles E. Shannon, Jr. Community Safety Initiative," to be administered by the Executive Office of Public Safety, intended to support regional, multi-disciplinary approaches to combat gang violence through coordinated programs for prevention and intervention; coordinated law enforcement, including regional gang task forces and regional crime mapping strategies; focused prosecutions; and reintegration strategies for ex-convicts; provided that the Secretary of Public Safety shall distribute grant funds through a competitive grant program that gives preference to applications that (1) demonstrate high levels of youth violence, gang problems, and substance abuse in a region; (2) demonstrate a commitment to regional, multi-jurisdictional strategies to deal with these community safety issues, including written commitments for municipalities, law enforcement agencies, community-based organizations and government agencies to work together; (3) clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address gang activity; (4) make a written commitment to match grant funds with a 25% match, provided either by municipal or private contributions; and (5) identify a local governmental unit to serve as fiscal agent; provided further that clusters of municipalities, in partnership with non-profit organizations and other agencies, including

district attorneys' offices, shall be eligible to apply for these funds; provided further that administrative costs for successful grant applications shall not exceed 3% of the value of the grant; provided further that no ~~such~~ ^{shall} grants will be awarded to the department of state police; provided further that no grant funds shall be expended on food or beverages; provided further that the Executive Office of Public Safety shall publish guidelines and an application for the competitive portion of the grant program no later than October 15, 2005 and that awards shall be made to applicants no later than January 15, 2006; provided further that the Executive Office of Public Safety shall submit a report to the house and senate committees on ways and means detailing the amount of the grants awarded to recipients and descriptions of the grants; and provided further, that each grant recipient shall provide the executive office of public safety with a comprehensive list of the best practices that have been instituted as a result of these grants..... \$11,000,000 •

Witness Protection Program

8000-00XX

For the operation of ^(the) witness protection program pursuant to chapter 258D of the General

Laws.....\$750,000 •

SECTION 11. Section 7 of chapter 258D of the General Laws shall take effect 1 year after the effective date of this act.

H.R., ~~Jan 10, 2006~~, 2006.

Passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause [at "A"] and inserting in place thereof the text contained in House document numbered ~~4615, amended~~ 4626, printed as amended. Sent to the Senate for concurrence in the amendment.

Steven James

, Clerk.

Stephen Brew
For the Clerk

SENATE, FEBRUARY 15, 2006.

The Senate concurs in the House amendment with the following further amendments:-

(at "[A]")

In Section 1, by inserting after the word "auditor", in line 20, the following words:- "a chief of police appointed by the Massachusetts Chiefs of Police Association,";

In said Section 1, in section 2 of the proposed chapter 263A of the General Laws, by striking out the last 2 sentences, inserted by House amendment,

(at "[B]")

In said Section 1, in the third sentence of section 3 of the proposed chapter 263A of the General Laws, by striking out the words "vote of two", inserted by House amendment, and inserting in place thereof the following words:- "vote of 3";



✓
in Section 1, by adding the following words:- (at "[D]")

"Section 11. The board shall establish a liaison with the United States Marshal's office in order to facilitate the legal processes over which the federal government has sole authority. The liaison shall coordinate all requests for federal assistance relating to witness protection.

The board shall pursue all federal sources that may be available for implementing this chapter. For that purpose, the board shall establish a liaison with the United States Department of Justice.

The board shall, in conjunction with the executive office of administration and finance and the senate and house ways and means committees, establish procedures to maximize federal funding for witness protection services."

✓
in said Section 1, by striking out the proposed Section 12 of chapter 263A of the General Laws, inserted by House amendment, and inserting in place thereof the following 2 sections:- (at "[E]")

"Section 12. Records of the board and all records relating to petitions and filed with the board shall be confidential and shall not be public records. Section 11A and section 11A½ of chapter 30A shall not apply to meetings, discussions or deliberations of the board.

Section 13. (a) A prosecuting officer may disclose or refuse to disclose the identity or location of a protected witness, or any other matter concerning a protected witness or the program, after balancing the danger such disclosure may pose to the protected witness, the detriment it may cause to the general effectiveness of the program,

and the benefit it may afford to the public or the person seeking discovery, except that a prosecuting officer shall, upon the request of a federal, state or local law enforcement official, or pursuant to a court order, disclose to such official the identity, location and criminal records relating to the protected witness when the prosecuting officer knows, or the request from such official indicates, that the protected witness is under criminal investigation for, or has been arrested for, or charged with, a felony.

(b) Whoever, without the express written authorization of the prosecuting officer, knowingly discloses any information received from the prosecuting officer or generated in connection with witness protection services and which poses a risk of harm: to a program participant; of disclosure of any person's participation in such program; or of jeopardizing the objectives of the program shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$5,000, or by both such fine and imprisonment. This section shall not apply to: any members of the board; members of the attorney general's office; members of the district attorneys' offices; law enforcement; or agents thereof, acting in the lawful discharge of their duties.”;

By striking out Section 2 and inserting in place thereof the following section-

(at "[F]") ✓

✓ [F] "SECTION 2. Section 1 of chapter 268, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

An indictment or complaint for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury proceedings, the defendant under oath has knowingly made 2 or more declarations, which are inconsistent to the degree that 1 of them is necessarily false, need not specify which declaration is false if:

(1) each declaration was material to the point in question and; (2) at least one declaration was made within the period of the statute of limitations for the offense charged under this section. If, in the same continuous court or grand jury proceeding in which a declaration

is made, the person making the declaration admits such declaration to be false, such admission shall bar prosecution under this section if, at the time the admission is made, the declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed. It shall be a defense to an indictment or complaint made pursuant to this section that the defendant, at the time he made each declaration, believed each such declaration to be true." ;

after the words "Section 13B." in line 4, lines 4 through 22, inclusive)
In Section 3, by striking out ~~subsection (1)~~ and by inserting in place thereof the following words:- *(at "[G.7"])*

(1) Whoever, directly or indirectly, willfully

(a) threatens, or attempts or causes physical injury, emotional injury, economic injury or property damage to;

(b) conveys a gift, offer or promise of anything of value to; or

(c) misleads, intimidates or harasses

another person who is:

(i) a witness or potential witness at any stage of a criminal investigation, grand jury proceeding, trial or other criminal proceeding of any type;

(ii) a person who is or was aware of information, records, documents or objects that relate to a violation of a criminal statute, or a violation of conditions of probation, parole or bail;

(iii) a judge, juror, grand juror, prosecutor, police officer, federal agent, investigator, defense attorney, clerk, court officer, probation officer or parole officer;

(iv) a person who is or was furthering a criminal investigation, grand jury proceeding, trial or other criminal proceeding of any type; or

(v) a person who is or was attending or had made known his intention to attend a grand jury proceeding, trial or other criminal proceeding of any type

(with the intent to impede, obstruct, delay, harm, punish or otherwise interfere thereby with a criminal investigation, grand jury proceeding, trial or other criminal proceeding of any type"; ~~shall~~ shall

By striking out Section 4 and inserting in place thereof the following section: (of "[HI"])

"SECTION 4. Said chapter 268, as so appearing, is hereby further amended by inserting after section 13C the following section:-

Section 13D. (a) Whoever knowingly distributes or possesses with intent to distribute any transcript of grand jury testimony or any substantially verbatim description of grand jury testimony with the intent to impede, obstruct, delay or otherwise interfere with any criminal proceeding, or the participation of any victim, witness or juror in any stage of a trial, grand jury, or other criminal proceeding, or the continued participation of any person furnishing information to a criminal investigator relating to a violation of any criminal statute, shall be punished by imprisonment in a house of correction for not more than 2½ years or in the state prison for not more than 5 years, or by a fine of not more than \$5,000, or both. Nothing in this subsection shall abridge any right protected by the First Amendment to the United States Constitution.

(b) Nothing in this section shall be construed so as to prohibit any person performing an official function in relation to the grand jury from disclosing a grand jury transcript or description thereof pursuant to Massachusetts Rule ^S of Procedure or Federal Rule of Criminal Procedure 6

(c) Any attorney representing a defendant in a criminal proceeding, including court appointed counsel, who receives a grand jury transcript or a description thereof related to such proceeding from a prosecutor, may provide the transcript or description to his client or any investigator employed by such attorney or another attorney employed by, or appointed by the court to represent, his client, unless such transfer would be in violation of a protective order from a court of competent jurisdiction. Such attorney may further disclose a grand jury transcript or description thereof related to such proceeding to assist in the legal defense of another defendant in a criminal proceeding, unless such transfer would be in violation of a protective order from a court of competent jurisdiction."

(d) Upon motion of the commonwealth and after hearing, a court may issue a protective order prohibiting defense counsel from distributing grand jury transcripts to a criminal defendant, if the commonwealth demonstrates that the defendant is accused of a violent crime, as defined in section 121 of chapter 140, and that there is a reason to believe, based on specific and articulable facts including, but not limited to, the defendant's past history of violence and the nature of the charges against the defendant, that the defendant poses a threat to a witness or victim. The defendant shall have a right to cross examine any commonwealth witness. In making a determination relative to the issuance of a protective order under this section, the court shall consider whether the defendant has an exceptional need to receive such grand jury transcripts.

(e) Any grand jury transcript or document citing or describing grand jury testimony filed with any court shall be filed and maintained under seal, unless the paper is filed in a criminal prosecution for perjury before a grand jury." ;

✓ In Section 6, by striking out, in line ^{19 and} 20, the words "not less than two and";

(Cat "[I]")

(at "[I]")

By striking out Section 7 and inserting in place thereof the following section:-

SECTION 7. ^{Said} Section 10 of ^{said} chapter 269, as so appearing, is hereby ^{further}

amended by adding the following 2 paragraphs:-

(n) Whoever violates paragraph (a) or paragraph (c), by means of a loaded firearm, loaded sawed off shotgun or loaded machine gun shall be further punished by imprisonment in the house of correction for not more than 2½ years, which sentence shall begin from and after the expiration of the sentence for the violation of paragraph (a) or paragraph (c).

(o) For purposes of this section, "loaded" shall mean that ammunition is contained in the weapon or within a feeding device attached thereto.

For purposes of this section, "ammunition" shall mean cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun." ;

(at "[K]")
8

in Section 9, by inserting after the word "associations", in line 6, the following words:- "or conduct";

(at "[L]^")

in ~~said~~ Section 11, by inserting after the word "program", ^{at the end thereof} in ~~line 17~~, the following words:- "including, but not limited to, the number of memoranda of understanding issued by each district attorney pursuant to chapter 263A of the General Laws.";

10
in Section ~~11~~, in item 8000-0038, by striking out the figure

"\$750,000" and inserting in place thereof the following figure:- "\$2,000,000".

(at "[M]")

By striking out Section 12, inserted by House amendment

[12]

(at "[N]")

and

(at "[O]")

By inserting before the enacting clause the following

of Senate, no. 2242

emergency preamble:-

"Whereas, the deferred operation of this act would tend to defeat its purpose, which is to forthwith reduce gang violence in the commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience."

Sent to the House for concurrence in the further amendments.

William F. Welch, Clerk.

H.R., March 9, 2006.

House concurred in the Senate further amendments with still further amendments. Sent to the Senate for concurrence in the still further amendments, as follows:

striking out [at "P"] section 2 and inserting in place thereof the following section:

"SECTION 2. Section 1 of chapter 268, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

An indictment or complaint for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury proceedings relating to an indictment or complaint for the commission of a violent crime, as defined in section 121 of chapter 140, the defendant under oath has knowingly made 2 or more declarations, which are inconsistent to the degree that 1 of them is necessarily false, need not specify which declaration is false if: (1) each declaration was material to the point in question and (2) each declaration was made within the period of the statute of limitations for the offense charged under this section. If, in the same continuous court or grand jury proceeding in which a declaration is made, the person making the declaration admits to such declaration to be false, such admission shall bar prosecution under this section if, at the time the admission is made, the declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed. It shall be a defense to an indictment or complaint made pursuant to this section that the defendant, at the time he made each declaration, believed each such declaration to be true or its falsity was the result of a good faith mistake or error."; and in section 11 (as printed), in item 8000-0038, striking out [at "Q"] the figures "2,000,000" (inserted by further amendment by the Senate) and inserting in place thereof the figures "750,000".

(ERJ)

Stewart James

Senate Committee on BTR
Correctly drawn
Stephen M. Bauer
For the Committee

SENATE, MARCH 16, 2006.

The Senate concurs in the further House amendments, with ~~still further amendments,~~

(at "ERJ")

in section 2, by inserting after the first

sentence the following sentence: "In any prosecution under this section, the falsity of a declaration set forth in the indictment or complaint shall be established sufficient for conviction by proof that the defendant, while under oath, made irreconcilably contradictory declarations material to the point in question."

[Handwritten mark]

✓ ✓
(W) [S] (W)
by adding the following words: ~~§~~ and in section 11 (as printed), by adding the following words: ^(W) provided, that funds appropriated in this item and not expended before July 1,

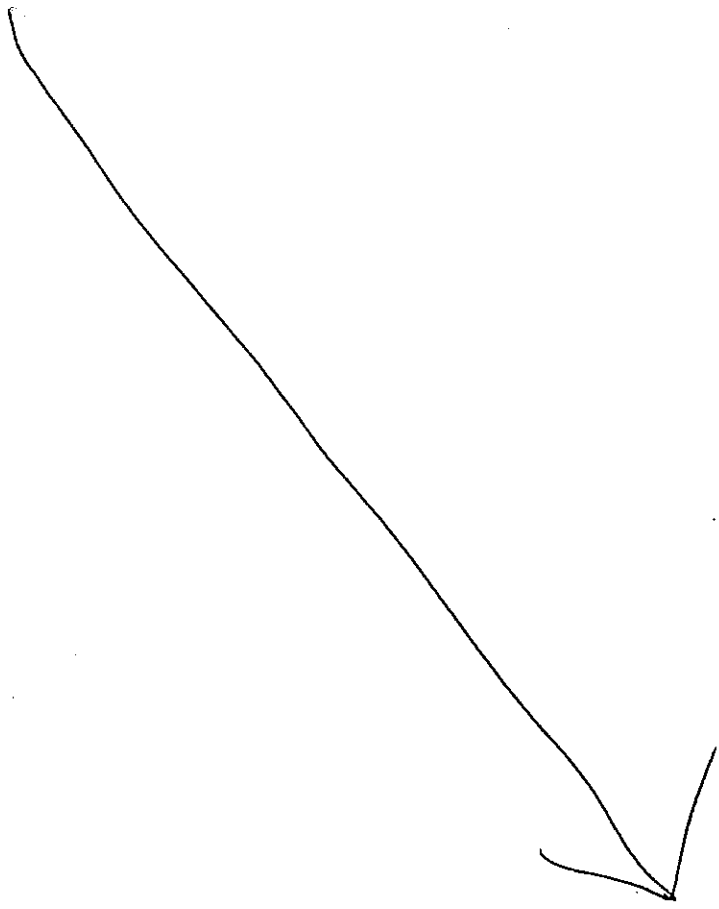
2006 shall be available for expenditure in fiscal year 2007; and

by striking out the figure '750,000' (inserted by further amendment by the House)

✓
and inserting in place thereof the following figure: ^{(W) [T]} - '1,500,000'."

Sent to the House for concurrence in the still further Senate amendments.

William F. Welch, Clerk.



H.R., March 16, 2006.

House concurred with the Senate in its still still further amendments with a still still still further amendment in section 11 (as inserted by amendment by the House and contained in House document numbered 4626), striking out [at "U"] the following: "; provided that funds appropriated in this item and not expended before July 1, 2006 shall be available for expenditure in fiscal year 2007" (inserted by still still further amendment by the Senate) and inserting in place thereof the following: "; provided, that of the fund^s appropriated in this item, \$500,000 shall be available for expenditure in fiscal year 2006 and \$1,000,000 ⁱⁿ for fiscal year 2007".

Steve James, Clerk.

Senate Committee on BTR
Correctly drawn

Stephen M. Brewer
For the Committee

Senate, March 16, 2006

Senate concurs in still still still further amendment.

William F. Welch, Clerk

as changed by the Committee on Bills in the Third Reading and as amended by the House on January 10, 2006

The Commonwealth of Massachusetts



IN THE YEAR TWO THOUSAND

AN ACT TO REDUCE GANG VIOLENCE IN THE COMMONWEALTH

By striking out all after the enacting clause and inserting in place thereof the following:

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. The General Laws are hereby amended by adding after chapter 263, the following chapter:-

CHAPTER 263A. WITNESS PROTECTION IN CRIMINAL MATTERS

Section 1. For the purposes of this chapter, the following words shall have the following meanings:-

"board" shall mean the witness protection board established in section 2 of chapter 263A.

"prosecuting officer" shall mean the attorney general or the district attorney from each county.

"critical witness" shall mean any person who is participating in a criminal investigation, or has received a subpoena or who is reasonably expected to give testimony

that is, in the judgment of the prosecuting officer, essential to ^{a criminal investigation or proceeding} ~~the commonwealth's~~ ~~proceedings~~, or such person's relatives, guardians, friends or associates who are reasonably endangered by ^{such} ~~the~~ person's participation in the criminal investigation or proceeding.

Section 2. There is hereby established a witness protection board within the ~~Executive Office of Public Safety~~ consisting of the secretary of public safety, the attorney general, the auditor, ^{and} a district attorney appointed by ^{the} Massachusetts district attorney's association, or ^{any} ~~each~~ member's respective designees. The board shall oversee the commonwealth's witness protection program and coordinate the efforts of state, county and law enforcement agencies to protect the health, safety, and welfare of witnesses, including but not limited to the administration and approval of funding for witness protection services. The board shall promulgate rules and regulations for the administration of the commonwealth's witness protection program and establish procedures to maximize federal funds for witness protection services. ~~The board shall, subject to appropriation, reimburse the prosecuting officer for any witness protection related costs that are in compliance with the regulations and guidelines established by the board.~~

The total amount of such reimbursements for witness protection related costs shall not exceed \$750,000 during any fiscal year. In the event that the costs of said program exceed \$750,000 during any fiscal year, then said excess costs shall be paid by the prosecuting office out of special law enforcement trust funds established pursuant to section 47 of chapter 94C of the General Laws.

Section 3. In any criminal investigation or proceeding, the prosecuting officer with jurisdiction over the investigation or proceeding may file a petition with the board requesting witness protection services for a witness ^{critical if} when the prosecuting officer ~~can~~ ^{certifies such} certify that ^{the} witness's participation in ^{such} investigation or proceeding places the witness at risk of harm, including but not limited to intimidation or retaliatory violence. The petition shall include a proposed plan for ^{protective} protection services which shall include, but

not be limited to projected costs, method of protection and duration of services. The ^{likely}
~~witness protection board shall review the petition as soon as possible and if, by majority~~
a vote of two or more board members
~~vote,~~ ^{the} finds that petition and plan comply with the rules and regulations established by the
board, the ~~witness protection~~ board shall assist the prosecuting officer to coordinate the
efforts of state, county and local agencies to secure witness protection services. The
board shall, subject to appropriation, reimburse the prosecuting officer for any witness
protection related costs that ~~are in compliance~~ ^{comply} with the regulations and guidelines
established by the board.

Section 4. If a prosecuting officer ~~agency~~ ^{that} determines exigent circumstances exist
regarding an imminent threat to the safety of a critical witness, he may take any
appropriate temporary action he determines is necessary to protect the safety of the
witness without prior approval of the ~~witness protection~~ board. The prosecuting officer
shall inform the board of the action taken and the related costs within ~~forty eight~~ ⁴⁸ hours.
Any such costs, which would otherwise be in compliance with the rules and regulations
established by the board pursuant to section 2, may be reimburs^{ed}~~able~~ to the prosecuting
officer.

Section 5. Protection ^{ve}~~on~~ services provided to a critical witness may include, but shall
not be limited to: —

(a) any necessary armed protection or escort, marked or unmarked surveillance or
periodic visits or contact by law enforcement officials prior, during or subsequent to a
criminal proceeding;

(b) physical relocation to an alternate shelter, housing or residence;

(c) reasonable housing expenses;

(d) transportation or storage of personal possessions;

(e) basic living expenses; *and*

(f) petition for a protective order on any individual identified as a threat to a *critical*

witness.

Any protective services provided to a critical witness shall be made known to defense counsel pursuant to Rule 14 of the Massachusetts Rules of Criminal Procedure.

Section 6. Before providing witness protection services to any *critical* witness under this chapter, except where it is determined that temporary protective services are necessary pursuant to section 4, the prosecuting officer shall enter into a written memorandum of understanding with *such* ~~that~~ *of* witness. ~~Where~~ temporary protective services have been provided pursuant to section 4, a written memorandum of understanding shall be entered into as soon as practicable. The written memorandum of understanding shall be signed by: the prosecuting officer or his ~~her~~ designee; the witness to be afforded protective services; the witness' guardian if the witness is a minor; and the witness' attorney if the witness is represented by counsel. Such written memorandum of understanding shall not be considered a grant of immunity. The written memorandum of understanding shall include: —

(a) The responsibilities agreed to by the witness while receiving protective services, *shall include* ~~including~~, but not limited to, an agreement to: —

(i) provide complete and truthful information to all *relevant* ~~appropriate~~ law enforcement officials related to all *relevant* ~~appropriate~~ investigations, and to testify completely and truthfully in all appropriate proceedings;

(ii) not commit any crime;

his participation in the witness protection program or the provision of protective services under such program

- (iii) take all necessary precautions to avoid making known to others ^{the facts} ~~concerning the protective services provided to the witness under this chapter;~~
- (iv) comply with ^{any} ~~the~~ legal obligations and ^{or} ~~the~~ civil judgments against the witness;
- (v) cooperate with all reasonable requests of officers and employees of the commonwealth who are providing protective services under this chapter;

(vi) designate another person to act as an agent for the service of process. Under no circumstances shall the person so designated be an employee of the prosecuting officer or other law enforcement agency, or be a member of or perform duties on behalf of the witness protection board;

(vii) make a sworn statement of all outstanding legal obligations, including obligations concerning child custody and visitation, and child support;

(viii) disclose any probation or parole conditions, obligations, or responsibilities; *and*

(ix) regularly inform the prosecuting officer of the activities and current address of the witness ^(d)

ⁱ (h) The names and telephone numbers of representatives of the prosecuting officer or law enforcement personnel to contact if the witness has questions or concerns related to the protective services or the witness' safety ⁽ⁱ⁾

ⁱⁱ (k) The protective services that the prosecuting officer has determined will be requested, and, if authorized, ^{to} ~~will~~ be provided to the witness under this chapter; *and*

ⁱⁱⁱ (l) The procedures to be followed, if there is a determination by the prosecuting officer that there has occurred a material breach of the memorandum of understanding, as established by the prosecuting officer.

It (b) The responsibilities agreed to by the Commonwealth while providing protective services shall include, but not be limited to:

Section 7. If a witness, after being offered protective services under this chapter, at any time declines to receive such services, the prosecuting officer shall request that the witness make such refusal in writing, or, if the witness refuses to document such refusal of services in writing, ^{the prosecuting officer} shall document the refusal and inform the witness protection board forthwith that the witness ^{has declined} ~~is declining~~ protective services. If a witness violates the terms of the memorandum of understanding set forth in section 6 or any other condition of receiving witness protection services under this chapter, the prosecuting officer may revoke and terminate all protective services, and shall so advise the witness in writing. The prosecuting officer shall notify the board forthwith of such revocation and grounds therefore.

Section 8. Notwithstanding any general or special law to the contrary, or any regulation, rule or ordinance, ^{if} when a petition and plan for witness protection, approved by the witness protection board, requires relocation of ^{a critical} ~~the~~ witness within the public housing system, ^{such} ~~that~~ relocation shall be effectuated without regard to any impediment including, but not limited to, any existing waiting list.

Section 9. Notwithstanding any general or special law to the contrary, or any regulation, rule or ordinance, ^{if} when a petition and plan for witness protection, approved by the witness protection board, requires relocation of ^{a critical} ~~the~~ witness to another public school within or without of the witness's current school system, ^{such} ~~that~~ relocation shall be effectuated without regard to any impediment including, but not limited to, class capacity limits and jurisdictional boundaries of any given school district.

Section 10. Nothing in this section shall be construed as creating a right, entitlement or cause of action on behalf of any person against any public employee,

public agency, the commonwealth, or any agency responsible for the provision of services set forth in this ^{chapter} section. In addition, the commonwealth, its officers and employees, and law enforcement personnel shall have immunity from suit based on any decision, act or omission related to this chapter.

[D1]

Section 11. ~~Commencing one year after the effective date of this chapter,~~ the ^{witness}

protection

board shall make an annual report to the general court, including the ~~House and Senate Ways and Means Committees and the Joint Committee on the Judiciary,~~ not later than January 1 of each year on the fiscal and operational status of the program ^{witness protection}

[D2]

INSERT SECTION 12 FROM PAGE -7A-

[D3]

SECTION 2. Chapter 268 of the of the General Laws, as appearing in the 2004 Official Edition,

^{out} Edition, is hereby amended by striking section 1 and inserting in place thereof the

following ~~new~~ section:-

Section 1. Whoever, being lawfully required to depose the truth in a judicial proceeding or in a proceeding in a course of justice, willfully swears or affirms falsely in a matter material to ^{an} the issue or point in question, or whoever, being required by law to take an oath or affirmation, willfully swears or affirms falsely in a matter relative to which such oath or affirmation is required, shall be guilty of perjury. An indictment or complaint for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury, the defendant under oath has knowingly made ² two or more declarations, which are inconsistent to the degree that one of them is necessarily false, or the defendant under oath has made irreconcilably contradictory declarations material to the point in question, shall be ~~evidence of the crime~~ of perjury. It shall be a defense to an ^{set} indictment or complaint made pursuant to this section that the defendant at the time he

INSERT ON
PAGE 7-

4 Section 12. Records of the board and all records relating to petitions and filed with the board shall be confidential and ~~exempt from the provisions of section 10 of chapter 66.~~ ^{shall not be public records}

A prosecuting officer may disclose or refuse to disclose the identity or location of a protected witness, or any other matter concerning the protected witness or the program, after balancing the danger such disclosure would pose to the protected witness, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or the person seeking discovery; except that a prosecuting officer shall, upon the request of federal, state, or local law enforcement officials, or pursuant to a court order, disclose to such officials the identity, location and criminal records relating to the protected witness when the prosecuting officer knows or the request from ^{such} ~~said~~ officials indicates that the protected witness is under criminal investigation for or has been arrested for or charged with a felony.

^{Whoever} ~~Any person who~~, without the express written authorization of the prosecuting officer, knowingly discloses any information received from the prosecuting officer or generated in connection with witness protection services shall be punished by imprisonment in ~~jail or~~ the house of correction for not more than ^{2 1/2} ~~two and one-half~~ years, or by fine of not more than \$5,000, or ^{by} both such fine and imprisonment.

made each declaration believed the declaration was true. Whoever commits perjury on the trial of an indictment for a capital crime shall be punished by imprisonment in the state prison for life or for any term of years, and whoever commits perjury in any other case shall be punished by imprisonment in the state prison for not more than ²⁰ twenty years or by imprisonment in a house of correction for not more than ^{2 1/2} two and one-half years or by a fine of not more than ^{\$1,000} one thousand dollars, or by both such fine and imprisonment. ST 21

Said
SECTION 3. Chapter 268 of the General Laws, is hereby *further* amended by striking out section 13B, as appearing ^{to} in the 2002 Official Edition, and inserting in place thereof the following section:-

[6]
SECTION 13B. (1) Whoever, directly or indirectly, willfully : *law*

(a) threatens, attempts, or causes physical injury, emotional injury, economic injury, or property damage; *or*

(b) conveys a gift, offer, or promise of anything of value; or

(c) misleads, intimidates, or harasses *another;*

with the intent to influence, impede, obstruct, delay, harm, punish, or otherwise interfere with *;*

ⁱ
(1) a criminal investigation, grand jury proceeding, trial, or other criminal proceeding of any type; *or*

ⁱⁿ
(2) a witness or potential witness at any stage of a criminal investigation, grand jury proceeding, trial, or other criminal proceeding of any type; ~~or~~

ⁱⁿ
(3) a person who is or was aware of information, records, documents, or objects that relate to a violation of a criminal statute, or a violation of conditions ^{of} ~~of~~ probation, parole, or bail; ~~or~~

ⁱⁿ
(4) a judge, juror, grand juror, prosecutor, police officer, federal agent, investigator, defense attorney, clerk, court officer, probation officer, ~~or~~ parole officer; ~~or~~

ⁱⁿ
(5) a person who is or was furthering a criminal investigation, grand jury proceeding, trial, or other criminal proceeding of any type; or

ⁱⁿ
(6) a person who is or was attending or ^{had made known his intention} ~~planning~~ to attend a grand jury proceeding, trial, or criminal proceeding; ~~or~~

shall be punished by imprisonment for not more than ^{2 1/2} ~~two and one half~~ years in a jail or house of correction or not more than ¹⁰ ~~ten~~ years in a state prison, or by a fine of not less than ^{\$5,000} ~~one thousand~~ dollars ^{and} ~~and~~ not more than ^{\$5,000} ~~five thousand~~ dollars.

²
(b) As used in this section, "investigator" shall mean an individual or group of individuals lawfully authorized by a department or agency of the federal government, or any political subdivision thereof, or a department or agency of the commonwealth, or any political subdivision thereof, to conduct ~~or~~ engage in an investigation of, prosecution for, or defense of a violation of the laws of the United States or of the commonwealth in the course of his official duties.

3
As used in this section, "harass" shall mean to engage in any act ~~or acts~~ directed at a specific person or persons, which act seriously alarms or annoys such person or persons and would cause a reasonable person to suffer substantial emotional distress. Such act~~s~~ shall include, but not be limited to, an act conducted by mail, electronic mail, internet communications, facsimile communications, or other telephonic or telecommunications device.

4
(d) A prosecution under this section may be brought in the county in which the criminal investigation, grand jury proceeding, trial, *is being conducted or* other criminal proceeding took place, or in the county in which the alleged conduct constituting an offense occurred.

[H] SECTION 4. Said chapter 268, ~~as so appearing~~, is hereby further amended by inserting *after section 13C* the following section:
2

4 Section 13D. (a) In any prosecution of an indictment or complaint *in which* ~~where~~ the defendant is accused of a violent crime *and* as defined in section 121 of chapter 140 that is a result of gang-related activity, the grand jury minutes and the written or recorded statements of a *witness* ~~person~~ who has testified before a grand jury, the names, addresses, and dates of birth of the commonwealth's witnesses *and* other than law enforcement witnesses shall not be provided as discovery under any court rule, regulation, or law unless a motion for such discovery is allowed by the ~~justice of a court~~ after a hearing on the merits of the motion. The prosecuting attorney may present witnesses and evidence at such hearing. In determining whether *in the interest of justice* the defendant shall be entitled to ~~this~~ *such* discovery, the court shall consider the nature of the offense, the circumstances under

which the crime was committed, the potential for witness intimidation, and whether the safety of the public will be endangered.

(b) Upon motion and after a hearing, the court may issue a protective order for discovery or any other appropriate order to restrict, defer, or grant in part discovery of such material to a defendant. The judge may, for cause shown, grant discovery to a defendant on the condition that the material to be discovered be available only to counsel for the defendant. All protective orders issued under this section shall contain in large print at the top of the order the following statement in at least 10 point font:

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

(c) A violation of this section or a protective order issued under this section shall be punishable by a fine of not more than ~~one thousand~~ ^{\$1,000} dollars, or by imprisonment for ~~one~~ ^{in the House of Correction} year, or by both such fine and imprisonment.

~~SECTION 5. Said chapter 268, as so appearing, is hereby further amended by inserting the following section:~~

- 4 Section 13E. (a) Any court with jurisdiction over any delinquency, grand jury or criminal matter may, after a hearing and within its discretion, issue a protective order for the safety of any victim or witness of gang related violence including, but not limited to (1) any order described in section 3 of chapter 209A or (2) an order to maintain a prescribed geographical distance from any specified victim or witness.
- 4 (b) All protective orders issued under this section shall contain in large print at the top of the order a notice that the witness or victim should immediately call the police if any

person violates the protective order, the telephone number of the police department ^{of the municipality wherein} where the victim or witness resides and ~~where the victim or witness~~ is employed, and the following statement, in at least 10-point font: VIOLATION OF THIS ORDER IS A

CRIMINAL OFFENSE.

(c) A violation of a protective order issued under this section shall be punishable by a fine of not more than ~~five thousand dollars~~ ^{\$5,000}, or by imprisonment for not more than ~~two and one-half~~ ^{2 1/2} years in a house of correction, or by both such fine and imprisonment.

(d) An arrest for a violation of a protective order issued under this section may be without warrant upon probable cause whether or not the violation is committed in the presence of a law enforcement officer.

SECTION ⁵ 6. Section 10 of chapter 269 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended ^{out, a} (in lines 30, 32 and 35) by striking the words "one year" ^{each time} wherever they appear and inserting in place thereof the following ^{in each instance,} words: "one month."

SECTION ⁶ 7. Section 10 of chapter 269 of the General Laws, as appearing in the 2004 Official Edition, is hereby ^{further} amended by striking ^{out,} paragraph (h) and inserting in place thereof the following paragraph:-

(h) (1) Whoever owns, possesses or transfers a firearm, rifle, shotgun or ammunition without complying with the provisions of section 129C of chapter 140 shall be punished by imprisonment in a jail or house of correction for not more than ~~two~~ ² years or by a fine of not more than \$500. ^{Whoever commits a second or subsequent} A ~~second~~ ¹ violation of this paragraph shall be punished

May arrest without a warrant any person upon the objection of the police department to believe that violation is...

by imprisonment in a ~~ja~~il or house of correction for not more than ²two years or by a fine of not more than \$1,000 or both. ~~A person committing a violation of this subsection may be arrested without a warrant by any officer authorized to make arrests.~~

May arrest without a warrant any person when the officer has probable cause to believe that individual has violated this paragraph.

(2) Any person who leaves a firearm, rifle, shotgun or ammunition unattended with the intent to transfer possession of ^{such}the firearm, rifle ^{or ammunition} or shotgun to any person not licensed under section 129C of chapter 140 or section 131 of chapter 140 for the purpose of committing a crime or concealing a crime shall be punished by imprisonment in a house of correction for not less than ^{LII}two and not more than ^{2 1/2}two and one half years or in state prison for not more than ⁵five years.

47

SECTION 8. ⁷Said ^{said}Section 10 of chapter 269, as so appearing, is hereby ^{further}amended by ^{adding}inserting after paragraph (m) the following paragraph:-

(n) ^{violates}Whoever ~~commits an offense set forth in~~ paragraph (a) or paragraph (c) ^{by means of} and ~~possesses~~ a firearm containing ammunition shall be punished by imprisonment in the house of correction for not more than ^{which sentence shall}2 1/2 years beginning from and after the expiration of the sentence ^{the}for violation of paragraph (a) or paragraph (c) of this section.

SECTION 9. ^{the first paragraph of}Section 58 of chapter 276 of the General Laws, as appearing in the 2004 ^{to}Official Edition, is hereby amended by inserting after the word "bond", in line 43, the following words: ^{adding} "sentence!"

If the justice or clerk or assistant clerk of the district court, the bail commissioner or master in chancery determines it to be necessary, the defendant may be ordered to abide by specified restrictions on personal associations, including but not limited to avoiding all

(PKJ)

contact with an alleged victim of the crime and any potential witness or witnesses who may testify concerning the offense, as a condition of release.

SECTION ⁹10. Section 58B of said chapter 276, as so appearing, is hereby amended by inserting after the words "pursuant to" in lines 1 and 2 the words: ^{following} ~~section fifty-eight or~~

SECTION ¹⁰11. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the General Fund unless specifically designated otherwise herein, for the several purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2006, provided that said sums shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

striking out, in line 2, the word "fifty-eight A" and inserting in place thereof the following words: "section 58 or section 58A."

EXECUTIVE OFFICE OF PUBLIC SAFETY

Witness Protection Program

8000-0038

For the operation of a witness protection program pursuant to chapter 263A of the

General Laws. ^[S] ^[M] \$750,000 ..

~~Section 10, Section 11 of chapter 263A of the General Laws shall take effect on February 1, 2007.~~

att [N]

SECTION 12

of chapter 233

Chapter 233, section 5 of the General Laws, as appearing in the 2004 Official Edition, is here by

Amended by adding the following paragraph:

~~Section 6~~

Where the defendant is accused of a violent crime as defined in section 121 of chapter 140 that is a result of gang-related activity, the punishment for such failure to attend shall be by a fine of not more than ten thousand dollars or by imprisonment for not more than one year or both.

\$10,000

Ms. Wilkerson and Mr. Montigny move to amend the pending motion (by Mr. Barrios),
by adding the following words:- “; and in section 11 (as printed), by adding the following
words:- ‘; provided, that funds appropriated in this item and not expended before July 1,
2006 shall be available for expenditure in fiscal year 2007’; and

by striking out the figure ‘750,000’ (inserted by further amendment by the House)
and inserting in place thereof the following figure:- ‘1,500,000’.”

Senate Committee on BTR
Correctly drawn:

Stephen M. Brewer
For the Committee

Mr. Barrios moves that the Senate concur with the House further amendments to the bill (Senate, No. 2242), with a still further amendment, in section 2, by inserting after the first sentence the following sentence:- "In any prosecution under this section, the falsity of a declaration set forth in the indictment or complaint shall be established sufficient for conviction by proof that the defendant, while under oath, made irreconcilably contradictory declarations material to the point in question."

Senate Committee on Education
Correctly drawn

Stephen M. Brewer
For the Committee

AMENDMENT NO. 5

FILED: 1/10/2006

11:20:09 AM FOR H.
4615

Representative Turkington of Falmouth moves that the bill be amended by adding at the end thereof the following:

"Section 12. If a victim of a crime, for an offense set forth in section thirteen A, thirteen D, fifteen, and fifteen A of chapter 265 of the General Laws, or conspiracy to commit any of said offense or as an accessory thereto, is a police-officer, an indictment may be found and filed within thirty years of commission of such offense."

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ment to Anti-gang violence
bill.doc

Mr. Baddour moves to amend the bill by inserting
after section 7 the following section: -

AN ACT RELATIVE TO THE POWER OF ARREST.

7A
SECTION 7A. Section 28 of chapter 276 of the General Laws, as ^{so} appearing in the 2004
Official, is hereby amended by adding the following paragraph:-

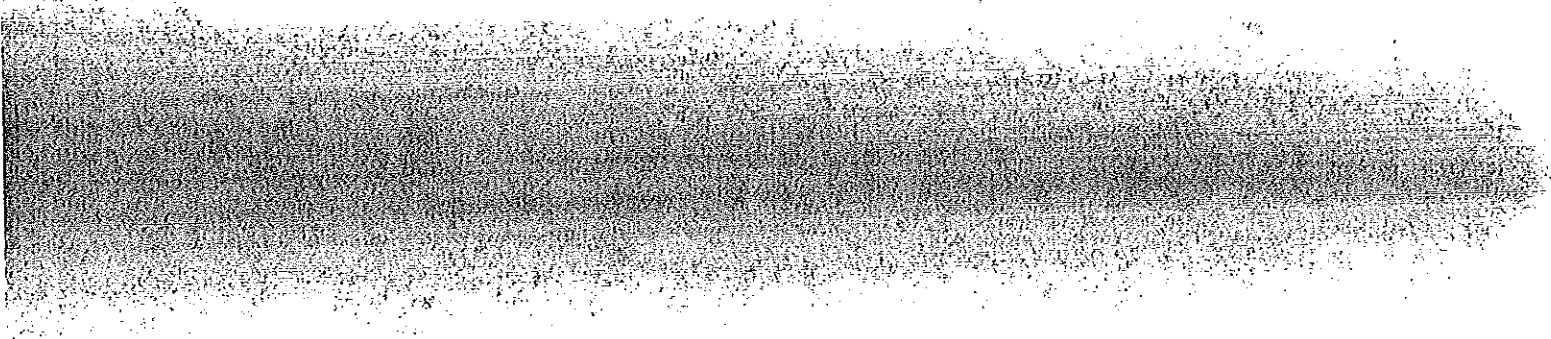
Any officer authorized to serve criminal process may arrest, without a warrant, any
person whom the officer knows is committing a violation of any term of his probation in
public view. The terms of probation for any individual shall be readily accessible to the
officer through the board of probation screen in the criminal justice information system. "

has
committed

management

Senate Committee on BTR
Correctly drawn

John Krause
For the Committee



AMENDMENT NO. 4 FILED: 1/10/2006 11:18:42 AM FOR H. 4615

Mr. Walsh of Boston moves to amend H4615 in Section 6 by striking the words "eighteen months" and inserting in place thereof the following- three years.

Ms. Khan of Newton moves that the bill be amended at the end thereof by inserting the following new section:--

SECTION __: There shall be a commission to study and make recommendations for the establishment and implementation of a coordinated curriculum for the training of law enforcement officers in responding to mental health emergencies and incidents involving persons with mental illness or mental retardation. The commission shall include and be co-chaired by the senate and house chairs of the joint committee on public safety and the senate and house chairs of the joint committee on mental health & substance abuse. The commission's other members shall be the secretary of public safety or his designee, the commissioner of mental health or his designee, the commissioner of mental retardation or his designee, a representative of the municipal police training committee, a representative of the University of Massachusetts medical school's law and psychiatry program, a representative of the Disability Law Center, a representative of the Building Partnerships Initiative, a representative of the Massachusetts Chiefs of Police Association, a representative of the National Alliance for the Mentally Ill of Massachusetts, the colonel of the department of state police or his designee, a representative designated by the Massachusetts Psychological Association, a representative from the Mental Health and Substance Abuse Corporation of Massachusetts, Inc., a representative from M-Power, a representative of the disabled persons protection commission, a representative of Consumer Quality Initiatives, Inc. and a representative of the Massachusetts Police Association.

The commission's review shall include, but not be limited to, the following issues as they relate to the training of law enforcement officials in responding to persons with mental illness or mental retardation:

AMENDMENT NO. 2 FILED: 1/10/2006 10:57:12 AM FOR H. 4615

- (1) risk management, crisis identification and intervention and de-escalation techniques;
- (2) the provision of information to law enforcement officers about individuals with mental illness or mental retardation, strategies law enforcement officers may use for reducing or preventing any risk of harm in mental health emergencies by using the least intrusive, restrictive and violent means of addressing such incidences while protecting the safety of the law enforcement officer, the individual in crisis and other persons present at the scene;
- (3) the laws regarding the defenses of lack of criminal responsibility and competency to stand trial, and the diversion of persons with mental illness or mental retardation for treatment instead of criminal prosecution;
- (4) the availability of civil remedies and community resources for persons experiencing mental health emergencies, and the protection of persons with mental illness or mental retardation and for law enforcement officers engaging such persons; an
- (5) an analysis of the financial impact of establishing and implementing the commission's recommendations as well as identifying any outside resources, programs or grants available to reduce any such financial impact.

The commission shall conduct at least 1 public hearing and shall file its report and recommendations with the clerks of the senate and the house respectively, including any legislation necessary to implement such recommendations, not later than January 1, 2006.

Ms. Wolf of Cambridge moves that H. 4615 be amended by inserting the following:-

SECTION XX. Chapter 167 of the Acts of 2005 shall be amended in line-item 8100-0011 in Section 2A by inserting at the end the following:-

Provided further, the "Senator Charles E. Shannon, Jr. Community Safety Initiative" shall also include pilot programs established pursuant to Chapter 69, Section 1N for trauma-sensitive schools in communities that are disproportionately affected by gangs and gang violence. Said communities shall be in the regions selected to receive the "Senator Charles E. Shannon, Jr. Community Safety Initiative" grants. The Department of Education shall work with the Executive Office of Public Safety, local law enforcement and school officials to determine the schools to receive the pilot programs. Pilot programs shall include, but not be limited to, targeting behaviors that may result from trauma and lead to the formation of gangs. Grants shall be administered by the Department of Education.

And be it further amended in line-item 8100-0011 of Section 2A of Chapter 167 of the Acts of 2005 by striking out "\$11,000,000" and inserting in place thereof the following:-

"\$11,250,000".

AMENDMENT # _____

FLOOR# _____

Representative Philip Travis (D-Rehoboth) moves to amend House 4615 as follows:

Strike Section 10 in its entirety

Mr. Rushing of Boston moves that the bill be amended in Section 1 by striking the following:

“critical witness” shall mean any person who is participating in a criminal investigation, or who has received a subpoena or who is reasonably expected to give testimony that is, in the judgment of the prosecuting officer, essential to the commonwealth’s proceedings, or such person’s relatives, guardians, friends or associates who are reasonably endangered by the persons participation in the criminal investigation or proceeding.

And inserting in the place thereof the following:

“critical witness” shall mean any person who is participating in a criminal investigation, or has received a subpoena or who is reasonably expected to give testimony that is in the judgment of the prosecuting officer, essential to the court’s proceedings, or such person’s relatives, guardians, friends or associates who are reasonably endangered by the person’s participation in the criminal investigation or proceeding.

Mr. DeLeo of Winthrop hereby moves to amend House Bill No. 4615 in Section 1 in subsection 2 by adding at the end thereof the following:-

“The total amount of such reimbursements for witness protection related costs shall not exceed \$750,000 during any fiscal year. In the event that the costs of said program exceed \$750,000 during any fiscal year, then said excess costs shall be paid by the prosecuting office out of special law enforcement trust funds established pursuant to section 47 of chapter 94C of the General Laws.”

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton, Mr. Lepper of Attleboro, and Mr. deMacedo of Plymouth move to amend House Bill 4615 by inserting *adding at the end of section 1 the following 2* after ~~proposed section 11~~ of section 1 the following new section:-

“Section 12. Records of the board and all records relating to petitions and filed with the board shall be confidential and exempt from the provisions of section 10 of chapter 66. A prosecuting officer may disclose or refuse to disclose the identity or location of a protected witness, or any other matter concerning the protected witness or the program, after balancing the danger such disclosure would pose to the protected witness, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or the person seeking discovery; except that a prosecuting officer shall, upon the request of federal, state, or local law enforcement officials, or pursuant to a court order, disclose to such officials the identity, location and criminal records relating to the protected witness when the prosecuting officer knows or the request from said officials indicates that the protected witness is under criminal investigation for or has been arrested for or charged with a felony.

Any person who, without the express written authorization of the prosecuting officer, knowingly discloses any information received from the prosecuting officer or generated in connection with witness protection services shall be punished by imprisonment in jail or the house of correction for not more than two and one-half years, or by fine of not more than \$5,000, or both such fine and imprisonment.”

Mr. Jones of North Reading, Ms. Rogeness of Longmeadow, Mr. Peterson of Grafton,

Mr. Lepper of Attleboro, and Mr. deMacedo of Plymouth move to amend the bill in

Section 1 ^{in line 45} by striking, in the 3rd sentence of proposed section 3, the ^{words} phrase "majority

vote" and inserting in place thereof the following:-

"a vote of two or more board members"

section:

Mr. Cabral of New Bedford moves that the bill be amended by adding the following ~~paragraph to~~

Chapter 233, section 5 of the General Laws, as appearing in the 2004 Official Edition, is here by

Amended by adding the following paragraphs:

SECTION __.

Where the defendant is accused of a violent crime as defined in section 121 of chapter 140 that is a result of gang-related activity, the punishment for such failure to attend shall be by a fine of not more than ten thousand dollars or by imprisonment for not more than one year or both.

Mr. Cabral of New Bedford moves that the bill be amended by adding at the end thereof the following:

SECTION __.

Chapter 233, section 5 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking in line 5 "two hundred dollars" and inserting in its place "ten thousand dollars" and striking in line 6 "one month" and inserting in its place "one year."

The Commonwealth of Massachusetts

JUN 27 2005

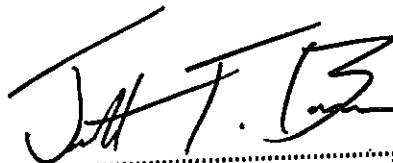
Senate,

The committee on Public Safety + Homeland Security to whom
was referred the petition (accompanied by bill, Senate, No. 1331.) of

Jarrett T. Barrios, Stephen R. Canessa,
Daniel F. Conley, Suffolk County District Attorney,
Cynthia Stone Creem, other members of the General Court
and another for legislation to reduce gang violence in the
Commonwealth.

By Ms. Creem, a petition (accompanied by bill, Senate,
No. 1353) of Cynthia S. Creem, Richard T. Moore, Bruce E.
Tarr, James B. Leary and other members of the General
Court for legislation to protect witnesses relative to the
crime of witness intimidation.

REPORT ~~recommending that the bill / resolve accompanying said petition ought~~
~~to pass.~~ **the accompanying bill (Senate, No. 2133).**



.....
For the Committee.

EMERGENCY PREAMBLE

(Adopted, House March 16, 2006 (2 to 0)
(Adopted, Senate March 16, 2006 (2 to 0))

AN ACT REDUCING GANG VIOLENCE.

House of Representatives, March 16, 2006.

Rightly and Truly Prepared for Final Passage.

Contains an Emergency Preamble.

Steve James, House Clerk.

In Senate, March 16, 2006.

Rightly and Truly Prepared for Final Passage.

Contains an Emergency Preamble.

William F. Welch, Senate Clerk.

This Act originated in the Senate William F. Welch, Clerk.

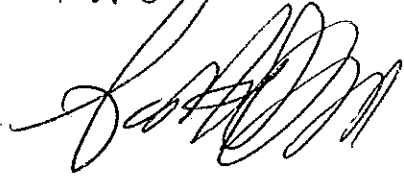
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REGULATIONS DIVISION
SECRETARY OF STATE

Docket 1614

An ACT To Reduce Gang Violence in the Commonwealth

Michael B. King Jr

Marc A. Pacheco Jr



2nd Hampden & Hampshire

1st Plymouth & Bristol

~~2nd~~ Norfolk, Bristol, Middlesex

Docket # 1614

An ACT TO REDUCE GANG VIOLENCE IN THE COMMONWEALTH

SENATOR HARRIETTE L. CHANDLER

Harriette L. Chandler

FIRST WORCESTER

1st Worcester

Representative Patricia A. Haddad

Patricia A. Haddad

5th Bristol

5th Bristol

STATE REPRESENTATIVE
STEVEN M. WALSH

Steven M. Walsh

Eleventh Essex

11th Essex

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled.

The undersigned, citizen of respectfully petitions for the passage of the accompanying bill and for legislation.

AN ACT TO REDUCE GANG VIOLENCE IN THE COMMONWEALTH

the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts

John F. Barry

Middlesex, Suffolk & Essex

Stephen R. Canessa

12th Bristol District

Daniel F. Conley

District Attorney, Suffolk County

Cynthia Stone Creem

First Middlesex & Norfolk

Edward M. Augustus

2nd Worcester

Carl Scantino

34th Middlesex

Stephen Buoniconti

Hampden

Joseph Curtatone

Mayor of Somerville

Steven C. Panajiotakes

1st Middlesex

Mark C. Montigny

2nd Bristol & Plymouth

Timothy Toomey

76th Middlesex

The Commonwealth of Massachusetts

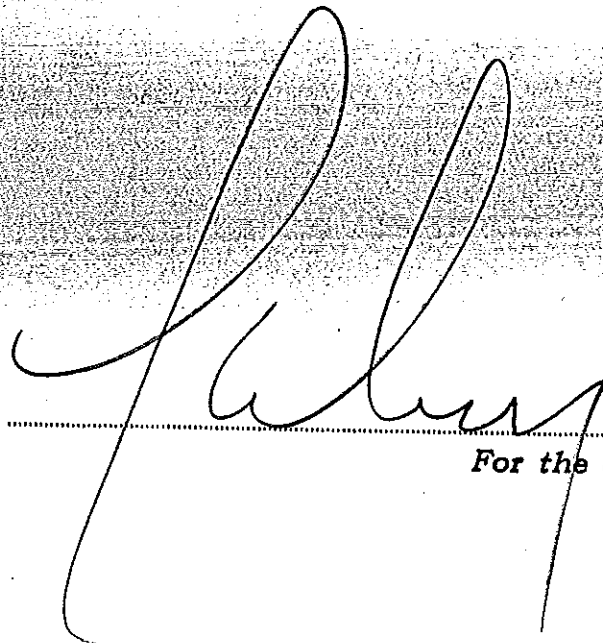
5a

Senate, October 19, 2005 19

The committee on Ways and Means, to whom was committed the
Senate Bill to reduce gang violence in the Commonwealth
(Senate, No. 2133),

REPORT recommending that the same ought xxx to pass.

with an amendment, substituting a new draft with the same title
(Senate, No. **2242**).

A large, stylized handwritten signature in black ink, appearing to be 'J. Kelly', is written over a horizontal dotted line.

For the committee.

Mr. Barrios and Mr. Hart move to amend the House text (House, No. 4645 of the

4626

Senate, No. 2242), as printed, by inserting before the enacting clause the following emergency preamble:-

"Whereas, the deferred operation of this act would tend to defeat its purpose,

which is to forthwith reduce gang violence in the Commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience"; and

in Section 1, by inserting after the word "auditor", in line 20, the following

words:- "a chief of police appointed by the Massachusetts Chiefs of Police Association";

in said Section 1, in section 2 of the proposed chapter 263A of the General Laws, by striking out the last 2 sentences, inserted by House amendment; and

in said Section 1, in the third sentence of section 3 of the proposed chapter 263A of the General Laws, by striking out the words "vote of two", inserted by House

amendment, and inserting in place thereof the following words:- "vote of 3", and in ~~said~~ Section 2, by inserting after the word "program", ~~in line 17~~, ^{at the end thereof} the following

words:- "including, but not limited to, the number of memoranda of understanding issued by each district attorney pursuant to chapter 263A of the General Laws";

in said Section 1, by striking out the proposed Section 12 of chapter 263A of the General Laws, inserted by House amendment, and inserting in place thereof the following 2 sections:-

"Section 12. Records of the board and all records relating to petitions and filed with the board shall be confidential and shall not be public records. Section 11A and

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4626

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words:- "including, but not limited to, the number of memoranda of understanding issued by each district attorney pursuant to chapter 263A of the General Laws";

in said Section 1, by striking out the proposed Section 12 of chapter 263A of the General Laws, inserted by House amendment, and inserting in place thereof the following 2 sections:-

"Section 12. Records of the board and all records relating to petitions and filed with the board shall be confidential and shall not be public records. Section 11A and

section 11A½ of chapter 30A shall not apply to meetings, discussions or deliberations of the board.

Section 13. (a) A prosecuting officer may disclose or refuse to disclose the identity or location of a protected witness, or any other matter concerning a protected witness or the program, after balancing the danger such disclosure may pose to the protected witness, the detriment it may cause to the general effectiveness of the program, and the benefit it may afford to the public or the person seeking discovery, except that a prosecuting officer shall, upon the request of a federal, state or local law enforcement official, or pursuant to a court order, disclose to such official the identity, location and criminal records relating to the protected witness when the prosecuting officer knows, or the request from such official indicates, that the protected witness is under criminal investigation for, or has been arrested for, or charged with, a felony.

(b) Whoever, without the express written authorization of the prosecuting officer, knowingly discloses any information received from the prosecuting officer or generated in connection with witness protection services and which poses a risk of harm: to a program participant; of disclosure of any person's participation in such program; or of jeopardizing the objectives of the program shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$5,000, or by both such fine and imprisonment. This section shall not apply to: any members of the board; members of the attorney general's office; members of the district attorneys' offices; law enforcement; or agents thereof, acting in the lawful discharge of their duties."; and

by striking out Section 2 and inserting in place thereof the following section:-

"SECTION 2. Section 1 of chapter 268, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

An indictment or complaint for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury proceedings, the defendant under oath has knowingly made 2 or more declarations, which are inconsistent to the degree that 1 of them is necessarily false, need not specify which declaration is false if: (1) each declaration was material to the point in question and; (2) at least one declaration was made within the period of the statute of limitations for the offense charged under this section. If, in the same continuous court or grand jury proceeding in which a declaration is made, the person making the declaration admits such declaration to be false, such admission shall bar prosecution under this section if, at the time the admission is made, the declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed. It shall be a defense to an indictment or complaint made pursuant to this section that the defendant, at the time he made each declaration, believed each such declaration to be true." ; and

after the words "Section 13B," in line 4
in Section 3, by striking out ~~subsection (1)~~ and by inserting in place thereof the

following words:-

Whoever, directly or indirectly, willfully

(a) threatens, or attempts or causes physical injury, emotional injury, economic injury or property damage to;

(b) conveys a gift, offer or promise of anything of value to; or

Section 13D. (a) Whoever knowingly distributes or possesses with intent to distribute any transcript of grand jury testimony or any substantially verbatim description of grand jury testimony with the intent to impede, obstruct, delay or otherwise interfere with any criminal proceeding, or the participation of any victim, witness or juror in any stage of a trial, grand jury, or other criminal proceeding, or the continued participation of any person furnishing information to a criminal investigator relating to a violation of any criminal statute, shall be punished by imprisonment in a house of correction for not more than 2½ years or in the state prison for not more than 5 years, or by a fine of not more than \$5,000, or both. Nothing in this subsection shall abridge any right protected by the First Amendment to the United States Constitution.

(b) Nothing in this section shall be construed so as to prohibit any person performing an official function in relation to the grand jury from disclosing a grand jury transcript or description thereof pursuant to Massachusetts Rule of Procedure or Federal Rule of Criminal Procedure 6.

(c) Any attorney representing a defendant in a criminal proceeding, including court appointed counsel, who receives a grand jury transcript or a description thereof related to such proceeding from a prosecutor, may provide the transcript or description to his client or any investigator employed by such attorney or another attorney employed by, or appointed by the court to represent, his client, unless such transfer would be in violation of a protective order from a court of competent jurisdiction. Such attorney may further disclose a grand jury transcript or description thereof related to such proceeding to assist in the legal defense of another defendant in a criminal proceeding, unless such

transfer would be in violation of a protective order from a court of competent jurisdiction."

(d) Upon motion of the commonwealth and after hearing, a court may issue a protective order prohibiting defense counsel from distributing grand jury transcripts to a criminal defendant, if the commonwealth demonstrates that the defendant is accused of a violent crime, as defined in section 121 of chapter 140, and that there is a reason to believe, based on specific and articulable facts including, but not limited to, the defendant's past history of violence and the nature of the charges against the defendant, that the defendant poses a threat to a witness or victim. The defendant shall have a right to cross examine any commonwealth witness. In making a determination relative to the issuance of a protective order under this section, the court shall consider whether the defendant has an exceptional need to receive such grand jury transcripts.

(e) Any grand jury transcript or document citing or describing grand jury testimony filed with any court shall be filed and maintained under seal, unless the paper is filed in a criminal prosecution for perjury before a grand jury." ; and

in Section ~~6~~, by striking out, in line ^{19 and} 20, the words "not less than two and"; and

by striking out Section ~~7~~ and inserting in place thereof the following section:-

SECTION ~~7~~. ^{Said} Section 10 of ^{Said} chapter 269, as so appearing, is hereby ^{further}

amended by adding the following 2 paragraphs:-

(n) Whoever violates paragraph (a) or paragraph (c), by means of a loaded firearm, loaded sawed off shotgun or loaded machine gun shall be further punished by imprisonment in the house of correction for not more than 2½ years, which sentence

shall begin from and after the expiration of the sentence for the violation of paragraph (a) or paragraph (c).

(O) For purposes of this section, "loaded" shall mean that ammunition is contained in the weapon or within a feeding device attached thereto.

For purposes of this section, "ammunition" shall mean cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun." ; and

in Section ⁸ 9, by inserting after the word "associations", in line ⁶ 3, the following words:- "or conduct"; and

by striking out Section 12, inserted by House amendment.

Stephen Boles
State Senator

