

189th General Court of the Commonwealth

2015-2016 Legislative Session



**MDAO Legislative Filings
Briefing Booklet**

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**An Act to Limit Access to Opiates
H. 2083**

Lead Sponsor: Representative Chris Walsh

Impetus

It is well known that opiates are incredibly addictive and are among the most abused types of substances currently available. Because emergency rooms and walk-in clinics have limited contact with a patient (and rely chiefly on self-reports by the patient rather than full knowledge of a person's medical history), these highly addictive substances can easily be overprescribed in these settings. Similarly, abusers seek out emergency rooms and walk-in clinics to feed their addiction. Limiting these short-term medical providers to prescriptions of only up to 72 hours will encourage proper follow up and supervision by a long-term healthcare provider.

Need

- Short-term medical providers are unable to provide the supervision necessary when prescribing opiates.
 - Short-term medical providers are targeted by abusers to feed their addiction.
-

Legislative Fix

- Limit the quantity of opiates an emergency room or walk-in clinic can prescribe to 72 hours' worth of opiates to encourage follow-up care and supervision by a long-term healthcare provider.

HOUSE No. 2083

The Commonwealth of Massachusetts

PRESENTED BY:

Chris Walsh

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to limit access to opiates.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Leah Cole</i>	<i>12th Essex</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>

HOUSE No. 2083

By Mr. Walsh of Framingham, a petition (accompanied by bill, House, No. 2083) of Chris Walsh and others for legislation to limit the prescription of controlled substances to an amount necessary for seventy-two hours of medically legitimate treatment. Public Health.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to limit access to opiates.

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

1 Section 1. Section 18 of Chapter 94C is hereby amended by the addition of subsection
2. (b $\frac{1}{2}$), which provides as follows: -

3 (b $\frac{1}{2}$) No practitioner may issue to a person seeking treatment in an emergency room of an
4 acute care hospital or in a clinic as defined by section 52 of chapter 111 a prescription for a
5 controlled substance which authorizes a quantity of medication in excess of that which is
6 customary within a 72 hour period of medically legitimate treatment.



An Act to Punish Drug Distribution Causing Death

H. 1243

Lead Sponsor: Nick Collins

Impetus

Since the year 2000, heroin overdose rates have quadrupled in the United States. The opiate crisis in Massachusetts speaks to the need for new strategies in combatting the illicit drug industry. Placing culpability directly on individuals who profit from people in the throes of addiction is a start. District Attorneys should have the option of filing an appropriate charge against drug profiteers whose activities lead to the death of a drug user.

Need

- No appropriate charge currently exists that would hold accountable persons involved in the manufacturing, distribution or sale of illicit drugs that result in an overdose death.
 - Over the last three years, State Police Detectives from the Middlesex District Attorney's Office investigated 342 deaths attributed to drug overdoses.
 - Between 2013 and 2014, there was an 81% increase in overdose deaths county wide.
 - During a 10 day period in March of 2015, 22 overdose deaths occurred in Massachusetts.
 - Since January 1, 2015, 63 deaths have occurred in Middlesex County -- just 2 less than in *all* of 2012. At this rate, Middlesex County can expect to have roughly 220 drug-induced deaths in 2015.
-

Legislative Fix

- Provides District Attorneys with the option of filing an appropriate criminal charge when a person's illegal drug-related activity is the proximate cause of an overdose death.
- Gives judges broad discretion to impose a sentence commensurate with one's role in the death of a drug user.

HOUSE No. 1242

The Commonwealth of Massachusetts

PRESENTED BY:

Nick Collins

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to punish drug distribution causing death.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Linda Dorcea Forry</i>	<i>First Suffolk</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>

HOUSE No. 1242

By Mr. Collins of Boston, a petition (accompanied by bill, House, No. 1242) of Nick Collins, Linda Dorcena Forry and Brian M. Ashe relative to the punishment for deaths caused as the result of the injection, inhalation or ingestion of drugs. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to punish drug distribution causing death.

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

1 Section 1. Chapter 265 is hereby amended by adding after Section 15C the following
2 section: -

3 Any person who manufactures, sells, distributes, or dispenses methamphetamine, lysergic
4 acid, diethylamide phencyclidine (PCP) or any other controlled drug in Class A or Class B as set
5 forth at section 31 of chapter 94C, or any controlled drug analog thereof, in violation of chapter
6 94C, is strictly liable for a death which results from the injection, inhalation or ingestion of that
7 substance, and may be sentenced to imprisonment for life or for any term of years as the court
8 may order. For purposes of this section, the person's act of manufacturing, distributing,
9 dispensing, or selling a substance is the cause of a death when:

10 (a) The injection, inhalation or ingestion of the substance is an antecedent but for which
11 the death would not have occurred; and

12 (b) The death was proximately caused by a person who manufactured, sold, distributed,
13 or dispensed such substance.

14 It shall not be a defense to a prosecution under this section that the decedent contributed
15 to his own death by his purposeful, knowing, reckless or negligent injection, inhalation or
16 ingestion of the substance or by his consenting to the administration of the substance by another.
17 Nothing in this section shall be construed to preclude or limit any prosecution for homicide.



An Act to Regulate NBOMe, A Dangerous Synthetic Drug H. 1155

Lead Sponsor: Representative Cory Atkins

Impetus

In November of 2013, the Drug Enforcement Administration labeled a new dangerous, cheap, and powerful drug, NBOMe, as a Schedule 1 controlled substance, the most serious classification that exists under Federal Law. Massachusetts law *does not* recognize these dangerous substances. Overlooking the severity and toxicity of such a lethal substance invites overdose, violence, and erratic behavior to the state of Massachusetts.

Need

- Massachusetts law categorizes controlled substances by assigning them to a class. NBOMe is not classified under the statute.
 - There have been confirmed cases in Concord, Worcester, Quincy, Boston, Norton and Hatfield; suspected cases of NBOMe in Acton, Westford, and Chelmsford; and suspected overdoses in East Bridgewater and Scituate.
 - Reports from medical examiners and toxicology labs link NBOMe to the death of at least 19 individuals, aged 15 to 29 years, in the U.S. between March 2012 and August 2013, either from ingestion of the drug alone, or ingestion of the drug that lead to deadly risk-taking behavior.
 - NBOMe is often purchased online and delivered anywhere.
-

Legislative Fix

- Include the dangerous drug NBOMe as a Class B controlled substance.
- Add three different compounds of the controlled substance NBOMe to the statute.
- Police will now be able to seize this dangerous substance as well as make arrests. District Attorneys can prosecute the possession, distribution, and sale of these dangerous substances.

HOUSE No. 1155

The Commonwealth of Massachusetts

PRESENTED BY:

Cory Atkins and Michael O. Moore

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to regulate NBOMe, a dangerous synthetic drug.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>

Barbara L'Italien

Second Essex and Middlesex

HOUSE No. 1155

By Representative Atkins of Concord and Senator Moore, a joint petition (accompanied by bill, House, No. 1155) of Cory Atkins and others for legislation to classify NBOMe as a controlled substance and establishing the penalty of the illegal possession of said substance. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4484 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to regulate NBOMe, a dangerous synthetic drug.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to allow law enforcement to prosecute dealers of a dangerous drug as soon as possible, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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

- 1 Section 1. Class B of section 31 of chapter 94C is hereby amended by adding in clause
- 2 (e)(2), after the words "Lysergic acid diethylamide" the following:-
- 3 , 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe; 2C-I-
- 4 NBOMe; 25I; Cimbi-5),
- 5 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe; 2C-
- 6 C-NBOMe; 25C; Cimbi-82),

7 or

8 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe; 2C-

9 B-NBOMe; 25B; Cimbi-36).



An Act to Prohibit Gunfire Directed at Dwelling Houses H. 1497

Lead Sponsor: Representative Rady Mom

Impetus

In the early morning of Sunday March 1, 2015, nineteen bullets sprayed the home of an innocent thirty-eight-year-old woman in Lowell. Incidents like this have become a growing trend statewide, especially in densely-populated urban communities. Currently, discharge of a firearm near a home is only punishable by a fine and/or up to 3 months in jail under G.L. c. 269, § 12E. Shooting at windows and doors may provide a basis to charge malicious destruction of property under G.L. c. 266, § 127, but the Commonwealth would have to prove the defendant acted with malice because the willful and unlawful act of destroying another's property is only a civil wrong unless there is a showing of malice in the sense of hostility, revenge or cruelty, and to warrant a penalty greater than 2 ½ years would have to establish the reasonable cost of repairs to be greater than \$250 as the value of the property is not measured by the property as a whole but by the pecuniary loss to the victim. Based on these inadequate statutes, a defendant who shoots at a home could, theoretically, receive a less severe punishment than a person who shoplifts items over one hundred dollars.

Need

- There is no statute that specifically addresses discharging a firearm at a dwelling house.
 - When a case arises, prosecutors are forced to charge a defendant with imperfect alternatives such as discharging a firearm within five hundred feet of a dwelling, or malicious destruction of property over \$250.
 - Currently, prosecutors must form their argument around the most feasible statute available.
 - Whether a shooting occurs because of mistaken identity, intimidation, or with the intention of physically harming a resident, the penalty should reflect the seriousness of the offense.
-

Legislative Fix

- Gives the Commonwealth the ability to charge a defendant with a more precise charge for intentionally discharging a firearm at a dwelling.
- Imposes a penalty proportionate to the crime.

HOUSE No. 1497

The Commonwealth of Massachusetts

PRESENTED BY:

Rady Mom

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to prohibit gunfire directed at dwelling houses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Rady Mom</i>	<i>18th Middlesex</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>

HOUSE No. 1497

By Mr. Mom of Lowell, a petition (accompanied by bill, House, No. 1497) of Rady Mom and others relative to penalties for persons using a weapon with intent to strike a dwelling house. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to prohibit gunfire directed at dwelling houses.

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

1 Section 1. Chapter 265 is hereby amended by adding after Section 18C the following
2 section: -

3 Section 18D. Whoever, being armed with a firearm, rifle, shotgun, sawed-off shotgun,
4 machine gun, assault weapon, or other weapon capable of discharging a bullet or shot, discharges
5 such weapon with intent to strike a dwelling house, and as a result does strike a dwelling house,
6 shall be punished by imprisonment in the state prison for a term of not less than five years nor
7 more than twenty years; provided, however, that whoever commits said offense after having
8 been previously convicted of a felony or of a violent crime, as defined by Chapter 140, Section
9 121, shall be punished by imprisonment in the state prison for not less than ten years nor more
10 than twenty years.

11 A sentence imposed under this section shall not be reduced nor suspended, nor shall any
12 person convicted under this section be eligible for probation, parole, furlough or work release or

13 receive any deduction from his sentence for good conduct until he shall have served the
14 minimum term of such additional sentence; provided, however, that the commissioner of
15 correction may, on the recommendation of the warden, superintendent or other person in charge
16 of a correctional institution or the administrator of a county correctional institution, grant to such
17 offender a temporary release in the custody of an officer of such institution for the following
18 purposes only: (i) to attend the funeral of a spouse or next of kin; (ii) to visit a critically ill close
19 relative or spouse; or (iii) to obtain emergency medical services unavailable at such institution.
20 Prosecutions commenced under this section shall neither be continued without a finding nor
21 placed on file. The provisions of section 87 of chapter 276 relative to the power of the court to
22 place certain offenders on probation shall not apply to any person 17 years of age or over
23 charged with a violation of this section.



An Act to Properly Punish the Solicitation of Felony Crimes H. 1557

Lead Sponsor: Representative David Rogers

Impetus

Forced to vacate a defendant's 6-10 year state prison sentence for soliciting a murder because such conduct is only punishable as a common law misdemeanor, the SJC highlighted the fact that no statutory crime existed to punish soliciting a murder as a "notable deficiency" in the criminal law and commented that the task of revising the schedule of punishments for soliciting felonies by the Legislature was "long overdue."

Need

- The penalty for solicitation to commit a felony should be proportional to the crime committed.
 - The punishment for solicitation in Massachusetts has not been updated since the common law rule was established.
 - Other similar inchoate crimes such as conspiracy and attempt have been amended to ensure that the proper punishment is imposed.
-

Legislative Fix

- Provide appropriate penalties of up to 20 years, 10 years or 5 years in state prison depending on the felony solicited.
- The punishment is determined by the purpose of the solicitation – i.e., the more serious the purpose, the more severe the penalty.

HOUSE No. 1557

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to Properly Punish the Solicitation of Felony Crimes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>

HOUSE No. 1557

By Mr. Rogers of Cambridge, a petition (accompanied by bill, House, No. 1557) of David M. Rogers and others relative to the solicitation of another to commit a felony . The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to Properly Punish the Solicitation of Felony Crimes.

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

1 Section 1. Chapter 274 is hereby amended by adding after Section 7 the following
2 section: -

3 Section 8. Any person who solicits another to commit a felony shall be punished as
4 follows:

5 First, if the purpose of the solicitation or any of the means for achieving the purpose of
6 the solicitation is a felony punishable by death or imprisonment for life, by a fine of not more
7 than ten thousand dollars or by imprisonment in the state prison for not more than twenty years
8 or in jail for not more than two and one half years, or by both such fine and imprisonment.

9 Second, if clause first does not apply and the purpose of the solicitation or any of the
10 means for achieving the purpose of the solicitation is a felony punishable by imprisonment in the
11 state prison for a maximum period exceeding ten years, by a fine of not more than ten thousand

12 dollars or by imprisonment in the state prison for not more than ten years or in jail for not more
13 than two and one half years, or by both such fine and imprisonment.

14 Third, if clauses first and second do not apply and the purpose of the solicitation or any of
15 the means for achieving the purpose of the conspiracy is a felony punishable by imprisonment in
16 the state prison for not more than ten years, by a fine of not more than five thousand dollars or by
17 imprisonment in the state prison for not more than five years or in jail for not more than two and
18 one half years, or by both such fine and imprisonment.

19 Fourth, if clauses first through third do not apply and the purpose of the conspiracy or
20 any of the means for achieving the purpose of the conspiracy is a crime, by a fine of not more
21 than two thousand dollars or by imprisonment in jail for not more than two and one half years, or
22 both.

23 If a person is convicted of a crime of solicitation for which crime the penalty is expressly
24 set forth in any other section of the General Laws, the provisions of this section shall not apply to
25 said crime and the penalty therefor shall be imposed pursuant to the provisions of such other
26 section.



**An Act to Enhance the Availability of Immunity to Witnesses
in the Courts of the Commonwealth**

H. 1466

Lead Sponsor: Representative Jay Livingstone

Impetus

Prosecutors are unable to seek grants of immunity in cases prosecuted in District and Juvenile Court because our statute only authorizes judges of the Supreme Judicial Court, Appeals Court, and Superior Court to grant immunity. This often results in an inability to prosecute cases where witnesses or victims engaged in unlawful conduct.

Need

- It is not uncommon for cases prosecuted in the District Court and Juvenile Court, including cases of domestic violence, for witnesses or victims to refuse to testify out of fear of their own criminal exposure. Without the ability to grant immunity in such cases, juries are unable to hear probative evidence or prosecutors must forego prosecution altogether.
-

Legislative Fix

- Amend the statute to authorize District Court and Juvenile Court judges to grant immunity.

HOUSE No. 1466

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to enhance the availability of immunity to witnesses in the courts of the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>DA Marion Ryan</i>	<i>15 Commonwealth Avenue</i> <input type="checkbox"/> <i>Woburn, MA 01801</i>

HOUSE No. 1466

By Mr. Livingstone of Boston, a petition (accompanied by bill, House, No. 1466) of Jay D. Livingstone and DA Marion Ryan relative to the availability of immunity to witnesses in the courts. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to enhance the availability of immunity to witnesses in the courts of the Commonwealth.

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

1 SECTION 1. Section 20D of chapter 233 of the General Laws, as appearing in the 2015
2 Official Edition, is hereby amended by striking the existing section and replacing it with the
3 following paragraph:

4 A witness who is called or who may be called to testify before a grand jury or in a
5 criminal proceeding in the supreme judicial court, appeals court, superior court, district court, or
6 a delinquency proceeding in the juvenile court, may, in the manner provided in section twenty E,
7 be granted immunity in any proceeding or investigation involving a criminal offense.

8 SECTION 2. Section 20E(a) of chapter 233 of the General Laws, as appearing in the
9 2015 Official Edition, is hereby amended by striking the words “or Superior Court” and
10 replacing them with the words “Superior Court, District Court or Juvenile Court.”

11 SECTION 3. Section 20E(c) of chapter 233 of the General Laws, as appearing in the
12 2015 Official Edition, is hereby amended by striking the words “or Superior Court” and

- 13 replacing them with the words "Superior Court, District Court or Juvenile Court," and by striking
- 14 the words "in the superior court" at the conclusion of the subsection.



An Act Regarding Testimony after Grant of Immunity to a Witness H. 1467

Lead Sponsor: Representative Jay Livingstone

Impetus

Under existing law, a witness may successfully obstruct an investigation into the most serious offenses -- armed robbery, rape of a child, first degree murder -- and face no more than one year in the House of Correction.

Need

- Current law only provides a minimal penalty in instances where a joint venturer who has been granted immunity refuses to testify.
 - A year in the House of Correction is insufficient to overcome a witness's reluctance to testify as a "stool pigeon."
-

Legislative Fix

- Increases the punishment to provide an adequate penalty for obstructing justice by determining the punishment based on the crime being obstructed.
- Differentiates between minors and adults by providing greater punishments to adults than to minors who refuse to testify after having been granted immunity.
- Retains the ability for a witness who refuses to testify to change his/her mind and be immediately released from custody.

HOUSE No. 1467

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regarding testimony after grant of immunity to a witness.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>DA Marian Ryan</i>	<i>15 Commonwealth Avenue</i> <input type="checkbox"/> <i>Woburn, MA 01801</i>

HOUSE No. 1467

By Mr. Livingstone of Boston, a petition (accompanied by bill, House, No. 1467) of Jay D. Livingstone and DA Marian Ryan relative witnesses granted immunity refusing to testify. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act regarding testimony after grant of immunity to a witness.

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

1 SECTION 1. Section 20H of Chapter 233 of the General Laws, as appearing in the 2015
2 Official Edition, is hereby amended by striking the existing section and replacing it with the
3 following:

4 Section 20H. If a witness has been granted immunity pursuant to the provisions of section
5 twenty E by a justice of the supreme judicial court, the appeals court, or the superior court, and
6 thereafter refuses to testify or produce evidence after being so ordered by such justice, the
7 attorney general or district attorney shall institute contempt proceedings against such witness in
8 the court where the alleged contempt occurred, and, after hearing or trial, if such witness is
9 adjudged in contempt of court, he shall be punished, if he has attained the age of eighteen, by
10 imprisonment in the state prison or the house of correction for a term not to exceed the maximum
11 penalty for the crime which is the subject of the grand jury investigation or criminal proceeding,
12 or until he complies with the order of the court, whichever occurs first. A witness who has not

13 attained the age of eighteen shall, if found in contempt, be committed to the Department of
14 Youth Services for a period not to exceed one year, or until he complies with the order of the
15 court, whichever occurs first. The rules of practice and procedure relative to criminal appeals as
16 provided by the Massachusetts Rules of Criminal Procedure and the Massachusetts Rules of
17 Appellate Procedure shall apply to appeals under this section.



An Act for Legislation Relative to Dangerous Weapons SD. 1303

Lead Sponsor: Senator Eileen Donoghue

Impetus

“[W]e recognize that the common understanding of the weapons enumerated in Ch. 269 Section 10(b), may not be as clear to people today as they were in the past. The Legislature may wish to examine the statute to state in more current terms what items are prohibited.” Commonwealth v. Miller 22 Mass. App. Ct. 694 (1986).

Under the current statute, carrying a machete, a butterfly knife, or a knife disguised as an innocent object is perfectly legal. Excluding these dangerous weapons from the statute not only puts the public at risk, but also heightens the risk that police officers take daily.

Need

- Machetes, butterfly knives, and knives disguised as innocent objects, which are currently not covered by our dangerous weapons statute, present an inherently dangerous situation for police and the potential for serious violence against others in the community.
- The statute uses unfamiliar terms (e.g., “dirk knife” and “blackjack”) making it difficult for police to know what weapons are prohibited.

Legislative Fix

- Adds dangerous weapons such as machetes, butterfly knives, and knives disguised as innocent objects to the list of dangerous weapons to ensure the safety of the public.
- Updates the statute by providing definitions and clear descriptions of the weapons prohibited by the statute.

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Eileen M. Donoghue

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to dangerous weapons.

PETITION OF:

NAME:

Eileen M. Donoghue

DISTRICT/ADDRESS:

First Middlesex

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1132 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to dangerous weapons.

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

1 SECTION 1. Section 10 of chapter 269 is hereby amended by striking out paragraph (b),
2 as appearing in the 2012 Official Edition, and inserting in place thereof the following paragraph:

3 (b) As used in this paragraph, the following words shall have the following meanings:

4 1. "ballistic knife", a device that propels a knifelike blade as a projectile by means of a
5 coil spring, elastic material, or compressed gas. The term "ballistic knife" shall not include any
6 device which propels an arrow or a bolt by means of any common bow, compound bow,
7 crossbow, or underwater speargun;

8 2. "billy club", a hand-held instrument designed for striking another with concussive
9 force, and shall include a nightstick, tonfa, spring-stick, or telescoping metal baton;

10 3. "blackjack", a hand-held instrument with a weighted end designed for striking with
11 concussive force;

12 4. "brass knuckles", a set of metal finger rings or guards attached to a transverse piece
13 and worn over the front of the doubled fist for use as a weapon, and includes any such device
14 whether made of brass, or of some other metal, or of another hard composite substance. This
15 definition shall include a knuckle-knife, meaning any brass knuckles attached to a blade

16 5. "butterfly knife", any knife having a blade encased in a split handle that manually
17 unfolds with hand or wrist action with the assistance of inertia, gravity or both;

18 6. "dagger", a bladed instrument designed for use as a weapon, including but not limited
19 to a dirk, stiletto, push-knife, boot knife, combat knife, or fighting knife;

20 7. "disguised knife", any knife designed so that it is not readily recognizable as a knife,
21 and appears instead to be some non-threatening item such as a lipstick, pen, belt buckle, air
22 gauge, or any other common item;

23 8. "electrical weapon", a portable device or weapon from which an electrical current,
24 impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to
25 incapacitate temporarily, injure or kill, including, but not limited to, a taser or stun

26 9. "knife", a cutting or stabbing instrument of metal or other resilient substance, and shall
27 include, but not be limited to, a sword or machete;

28 10. "leaded gloves", any gloves or other hand-covering which are manufactured or
29 modified such that they contain a weighted element such as lead shot, designed so that the
30 wearer may strike another with enhanced force;

31 11. "nunchaku", two sticks of wood, plastic or metal connected at one end by a length of
32 rope, chain, wire or leather, capable of striking another with force sufficient to cause injury;

33 12. "switchblade knife", any knife having an automatic spring release device by which
34 the blade is released from the handle, having a blade of over one and one half inches;

35 13. "throwing star", a shuriken, or any instrument with one or more sharp edges and
36 designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use
37 as a weapon for throwing;

38 14. "undetectable knife", any knife or other instrument with or without a handguard that
39 is capable of ready use as a stabbing weapon that is not detectable by a metal detector or
40 magnetometer set at standard calibration.

41 Whoever, except as provided by law, carries on his person, or under his control in a
42 vehicle, any dagger; any knife having a double-edged blade; any ballistic knife; any switchblade
43 knife; any butterfly knife; any disguised knife; any undetectable knife; any blackjack; any billy
44 club; any brass knuckles; any leaded gloves; any nunchaku; any throwing star; any electrical
45 weapon; or any other knife having a blade length of greater than 3 ½ inches that is possessed
46 during the commission of any felony or misdemeanor, or that is used or intended to be used in an
47 assaultive or otherwise unlawful manner; shall be punished by up to 5 years in the state prison, or
48 up to two and one half years in a jail or house of correction, or a fine of up to \$1,000, or both.

49 Whoever, after having been convicted of one or more felonies in any state or federal court,
50 violates the provisions of this paragraph shall be punished by imprisonment for a mandatory
51 minimum period of not less than 1 year nor more than 5 years in the state prison, or not less than
52 a mandatory minimum of six months nor more than two and one half years in a jail or house of

53 correction. Such a sentence shall not be suspended, nor shall any person so sentenced be eligible
54 for probation or receive any deduction from his sentence for good conduct. A fine of not more
55 than \$1,000 may be imposed, but not in place of the mandatory minimum term of incarceration.
56 Whoever shall violate the provisions of this section while in the commission of any felony shall,
57 in addition to any penalty for that felony, be punished by imprisonment for not less than a
58 mandatory minimum period of two and one half years nor more than ten years in the state prison,
59 or not less than a mandatory minimum of two years nor more than two and one half years a jail
60 or house of correction. A fine of not more than \$5,000 may be imposed, but not in place of the
61 mandatory minimum term of incarceration.

62 Nothing in this section shall prohibit possession of the above weapons by (i) a federal,
63 state or municipal law enforcement officer, or member of a special reaction team in a state prison
64 or designated special operations or tactical team in a county correctional facility, acting in the
65 discharge of his or her official duties who has completed a training course approved by the
66 secretary of public safety in the use of such a device or weapon; (ii) military personnel who
67 possess such weapons in question as part of their official duties; or (iii) an authorized supplier of
68 such devices or weapons if possession of the device or weapon is necessary to the supply or sale
69 of the device or weapon within the scope of a legitimate sale or supply enterprise.

70 SECTION 2. Subsection (o) of said Section 10 of Chapter 269, as so appearing, is
71 hereby further amended by striking the words "this section" in line 234, and inserting in its place
72 the following :- subsection (n).



An Act Relative to Fires and Explosions H. 1464

Lead Sponsor: Jay Livingstone

Impetus

8A. In the late hours of March 26, 2014, police, fire and EMTs from three communities rushed to a two-alarm fire in Tewksbury. The fire was caused by a group of individuals attempting to make butane honey oil, a byproduct of marijuana. These individuals extracted oil from marijuana by inserting pressurized butane into a tube filled with marijuana leaves. A makeshift double boiler was then used to attempt to evaporate the butane from the substance so that it could be smoked. Butane is highly volatile; once it was placed over an open flame, an explosion occurred, causing serious burns to the three individuals standing closest to the stove. The explosion blew out a window, resulting in a fire that destroyed the unit and two other apartment units in the same structure occupied by other families. There currently exists no criminal statute under which to charge for such negligent conduct, since the individuals did not intend either the explosion or the fire.

8B. Every year, multiple fires are set on school property by students seeking to interrupt the school day or cause a distraction. These fires are typically set in trash barrels or to paper in sinks or toilets. If the fire is extinguished before spreading to the building itself, the damage does not often exceed the \$25 threshold of the current statute, and therefore the perpetrator cannot be charged with a burning-related crime.

8C. Last summer two juveniles obtained fireworks; they lit them without adult supervision in a backyard. The firework exploded while one juvenile was holding it and the other was standing next to him. The juvenile holding the explosive lost his pinky and ring fingers completely and his middle finger above the knuckle; he also experienced multiple broken bones, burns to his hip, nose and lip from shrapnel; the friend standing near him was burned on his left thigh and groin area. Both boys experienced damage to their hearing.

8D. A campground experienced tens of thousands of dollars of damage from a fire that was caused by trespassers who allowed a campfire to spread. The current statute only authorizes a misdemeanor charge, regardless of the extent of the damage.

Need

8A. There is no available remedy for those who negligently or recklessly cause a fire through the manufacture of illicit substances, since all current burning and explosion statutes require the proof of specific intent to cause such burning or explosion.

8B. Law enforcement must have a vehicle to prosecute intentionally set fires that cause risk of damage to property and harm to students and school personnel, regardless of the ultimate damage done. Without a vehicle for prosecution, courts cannot mandate fire safety education or other preventative measures for those who set fires at school.

8C. With statutory protections lacking, the existing statute should be strengthened to protect individuals and bystanders from future explosive-related harm.

8D. An individual who damages the land or property of another through negligent management of an intentionally set fire must be held responsible.

Legislative Fix

8A. Allows police to arrest and District Attorneys to charge when an individual causes a fire or explosion during the manufacture of an illicit substance.

8B. Allows for the prosecution of an individual anytime he/she intentionally sets a fire on school grounds, regardless of the value of damage.

8C. Allows charges to be brought against an individual for using fireworks and other explosive devices which causes injury or damage to property.

8D. Provides law enforcement with a charging option when a person sets a fire and causes damage through negligence without requiring proof of specific intent to cause damage. Damage over \$5,000 will be a felony offense.

HOUSE No. 1464

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to fires and explosions.

PETITION OF:

NAME:

Jay D. Livingstone

DISTRICT/ADDRESS:

8th Suffolk

HOUSE No. 1464

By Mr. Livingstone of Boston, a petition (accompanied by bill, House, No. 1464) of Jay D. Livingstone relative to fire or explosions that cause injury. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to fires and explosions.

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

1 SECTION 1. Chapter 266 is hereby amended by adding after Section 8 the following
2 section: -

3 Section 8A. Any person who, as a result of or in the course of unlawfully and
4 intentionally manufacturing a controlled substance as defined by section 31 of chapter 94C,
5 causes a fire or explosion that causes personal injury, whether to such person himself or to other
6 persons, or that causes damage to a dwelling house, as defined in section 1 of this chapter, a
7 structure, a building, a motor vehicle, a boat or to any other conveyance, or to real property,
8 whether such property is owned by such person or by another, or is apparently abandoned, shall
9 be punished by imprisonment in the state prison for not more than ten years, or by imprisonment
10 in a jail or house of correction for not more than two and one half years.

11 SECTION 2. Section 5 of Chapter 266 is hereby amended by adding as a second
12 paragraph the following: -

13 Any person who, without authorization of the school administration, intentionally sets
14 fire to, burns, or causes to be burned any property within any building or structure of an
15 elementary or secondary school, a college or university, or on the grounds thereof, shall be
16 punished by imprisonment in a jail or house of correction for not more than two and one half
17 years.

18 SECTION 3. Section 7 of Chapter 266 is hereby amended by adding as a second
19 paragraph the following: -

20 Whoever by wantonly or recklessly sets or uses fire or any incendiary or explosive device
21 or material, including but not limited to fireworks, and causes danger to the property or safety of
22 another shall be punished by a fine of not more than one thousand dollars or by imprisonment for
23 not more than two years.

24 SECTION 4. Chapter 266 is hereby amended by striking out Section 8 as appearing in
25 the 2012 Official Edition, and inserting in place thereof the following paragraph: -

26 Section 8. Whoever, without the consent of the owner, sets or increases a fire upon land
27 of another whereby the property of another is injured, or whoever negligently or willfully suffers
28 any fire, set upon his own land or upon land of another by consent of the owner, to extend
29 beyond the limits thereof so to cause injury to the woods or property of another, if the cost to
30 restore or replace the property damaged does not exceed \$5,000, shall be punished by a fine of
31 not more than one thousand dollars or by imprisonment for not more than two years; if the cost
32 to restore or replace the property damaged equals or exceeds \$5,000, such person shall be
33 punished by imprisonment in the state prison for not more than five years, or by imprisonment in
34 a jail or house of correction for not more than two and one half years. The town where such fire

35 occurred may recover in an action of tort, brought within two years after the cause of action
36 accrues, against any such person the expense of extinguishing such fire.



An Act Relative to Intimidation of Witnesses and Interfering with Justice

H. 1460

Lead Sponsor: Representative David Linsky

Impetus

In Commonwealth v. Hamilton, 459 Mass. 422 (2011), the defendant threatened a probation officer in retaliation for violating his probation. The SJC vacated the defendant's conviction for violating G.L. c. 268, § 13B, holding that while it was clear that the 2006 amendments to the statute intended to broaden the protections provided by the statute, the language was ambiguous and the retaliation prong of the statute was unenforceable.

Need

- Participants in the judicial system must be protected against retaliatory conduct, protection that had been provided by this statute since 1970.
 - The SJC expressly asked the Legislature to clarify the language.
-

Legislative Fix

- Closes the current gap in the statute to cover retaliatory conduct.
- Rewrites G.L. c. 268, § 13B in streamlined language without altering the legislative intent or the penalties.

HOUSE No. 1460

The Commonwealth of Massachusetts

PRESENTED BY:

David Paul Linsky

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the intimidation of witnesses and interfering with justice.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>David Paul Linsky</i>	<i>5th Middlesex</i>

HOUSE No. 1460

By Mr. Linsky of Natick, a petition (accompanied by bill, House, No. 1460) of David Paul Linsky relative to intimidation in the criminal justice system. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1472 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to the intimidation of witnesses and interfering with justice.

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

1 Section 1. Chapter 268 of the General Laws, section 13B, is hereby amended by striking
2 out the section in its entirety and replacing it with the following:

3 Section 13B.

4 (1) Whoever, directly or indirectly, willfully

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

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

8 (c) misleads, intimidates or harasses;

9 (2) another person who is

10 (a) a judge, juror, grand juror, attorney, police officer, federal agent, investigator,
11 clerk, court officer, court reporter, probation officer or parole officer,

12 (b) a person who is a witness or potential witness,

13 (c) a person who is or was aware of information, records, documents or objects that
14 relate to a violation of a criminal statute, or a violation of conditions of probation, parole, bail, or
15 other court order, or

16 (d) a person who is or was attending, or had made known his intention to attend a
17 proceeding referenced in subsection (3);

18 (3) with the intent to

19 (a) impede, obstruct, delay, prevent or otherwise interfere with

20 (i) a criminal investigation at any stage, a grand jury proceeding, a dangerousness
21 hearing, a motion hearing, a trial or other criminal proceeding of any type, or a parole hearing, or
22 parole violation proceeding, or probation violation proceeding, or

23 (ii) an administrative hearing, or a probate and family proceeding, juvenile
24 proceeding, housing proceeding, land proceeding, clerk's hearing, court-ordered mediation, or
25 any other civil proceeding of any type; or

26 (b) punish, harm or otherwise retaliate against any person described in subsection (2)
27 for their participation in any of the aforementioned proceedings shall be punished by
28 imprisonment in the state prison for not more than ten years, or by imprisonment in jail or house
29 of correction for not more than two and one half years, or by a fine of not less than \$1,000 nor
30 more than \$5,000, or by both such fine and imprisonment.

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

37 (5) As used in this section, "harass" shall mean to engage in any act directed at a specific
38 person or persons, which act seriously alarms or annoys such person or persons and would cause
39 a reasonable person to suffer substantial emotional distress. Such act shall include, but not be
40 limited to, an act conducted by mail or by use of a telephonic or telecommunication device or
41 electronic communication device including but not limited to any device that transfers signs,
42 signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in
43 part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but
44 not limited to, electronic mail, internet communications, instant messages or facsimile
45 communications.

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



**An Act to Define Inducing a Minor into Prostitution
H. 1558**

Lead Sponsor: Representative John Lawn

Impetus

In the case of the Commonwealth v. Matos, 78 Mass. App. Ct. 578 (2011), the defendant was found guilty at trial of inducing a 16 year old minor to have sex with him for a fee. On appeal, the defendant argued that the statute prohibiting this conduct requires proof that the minor had never previously engaged in prostitution because the statutory language only prohibits a person from inducing a minor “to become” a prostitute. The Appeals Court agreed with this reading of the statutory language and overturned the conviction.

Need

- The current statute only applies when a minor has been induced into prostitution for the very first time.
- By only prohibiting inducing a minor “to become” a prostitute, this statute does not apply to previously victimized minors and unnecessarily limits the application of this statute.
- The Legislature recognizes the need to protect minor victims from commercial sexual activity as evidenced by the recently enacted human trafficking statutes, statutes prohibiting commercial sexual activity that are already on the books should be updated consistent with this recognition.

Legislative Fix

- Broadens the statute to allow charges to be brought against anyone who induces a minor to engage in, agree to engage in, or offer to engage in prostitution or in sexual conduct with another person for a fee.

HOUSE No. 1558

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to Define Inducing a Minor into Prostitution.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Dennis A. Rosa</i>	<i>4th Worcester</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>

HOUSE No. 1558

By Mr. Rogers of Cambridge, a petition (accompanied by bill, House, No. 1558) of David M. Rogers and others relative to the penalties for inducing a minor to engage in, agree to engage in or offer to engage in prostitution or sexual conduct. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to Define Inducing a Minor into Prostitution.

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

1 Section 1. The first sentence of Section 4A of Chapter 272, is hereby amended to provide
2 as follows: -

3 Whoever induces a minor to engage in or to agree to engage in or offer to engage in
4 prostitution or in sexual conduct with another person in return for a fee, or who knowingly aids
5 and assists in such inducement, shall be punished by imprisonment in the state prison for not
6 more than five, nor less than three years, and by a fine of five thousand dollars.



An Act to Extend the Statute of Limitations for Incest H. 1443

Lead Sponsor: Representative John Lawn

Impetus

Embarrassment, humiliation, and shame are just a few of the factors that commonly dissuade survivors of sexual assault from making timely reports to law enforcement. Due to the dynamics of sexual assault and the associated trauma of it, survivors who eventually report often do so after periods of considerable delay; in fact, reporting may be delayed for many years. When the perpetrator is a family member or caretaker, the trauma may be more intense in nature and accompanied by an added layer of personal and familial complexity. In addition, perpetrators of incest typically use their access to victims as a weapon to instill constant fear and intimidation. Thus, reports to law enforcement may be delayed for even longer periods of time.

Need

- The Legislature recognized the difficulties in exposing crimes of sexual assault when it amended our statute of limitations in 1996 to increase the time period in which to prosecute sexual assaults, but did not apply these lengthier time frames to incest.
- The time limits imposed by the current statute of limitations do not account for the dynamics of incest.
- Survivors of incest who make late disclosures cannot obtain justice through the criminal court process.
- Perpetrators of incest may not be held accountable for their crimes if the victim delays reporting past the statute of limitations.

Legislative Fix

- Amend the statute of limitations so that the limitation period would be commensurate with the already extended limitation period that currently applies to sex crimes other than incest.

HOUSE No. 1443

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Lawn, Jr.

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to extend statute of limitations for incest.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>Barbara L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

HOUSE No. 1443

By Mr. Lawn of Watertown, a petition (accompanied by bill, House, No. 1443) of John J. Lawn, Jr. and others relative to extending the statute of limitations for incest. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to extend statute of limitations for incest.

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

1 Section 1. The second paragraph of Section 63 of Chapter 277, is hereby amended to
2 provide as follows: -

3 Notwithstanding the first paragraph, if a victim of a crime set forth in section 13B, 13F,
4 13H, 22, 22A, 23, 24B, 26A or 50 of chapter 265, or section 1, 2, 3, 4, 4A, 4B, 5, 6, 7, 8, 12, 13,
5 26, 28, 29A, 29B, 33, 34, 35 or 35A of chapter 272 is under the age of 16 at the time the crime is
6 committed, or, if a victim of section 17 of chapter 272 is under the age of 18 at the time the
7 crime is committed, the period of limitation for prosecution shall not commence until the victim
8 has reached the age of 16 (or has reached age 18 if a victim of section 17 of chapter 272) or the
9 violation is reported to a law enforcement agency, whichever occurs earlier.



An Act Providing Protection from Child Enticement

H.1462

SD1399

**Lead Sponsors: Representative Paul Brodeur
Senator Jason Lewis**

Impetus

Upon leaving work, a fourteen-year-old girl was cornered by a man in an Ashland parking lot; he asked if she wanted a ride. After responding "no," the man immediately raised his voice, shouting "Get in the truck." The teenager scurried over to the first stranger she saw and begged for help. During questioning by police, the man initially denied being in the location of the incident. He later admitted he saw the victim but did not speak with her. After an investigation by police, the man was charged with child enticement.

A jury found the defendant guilty, but the trial judge allowed the defendant's motion for a required finding of not guilty concluding that the evidence of the defendant cornering the child and ordering her into the truck was insufficient to meet the requirements of the statute that the Commonwealth prove what the defendant intended to do with the child by luring her into the truck. The Commonwealth appealed, but the Appeals Court agreed that the child enticement statute requires establishing the defendant's specific intent at the time he entices a child into a car, that cornering the child and ordering her into the truck did not establish that the defendant intended to forcibly confine the child, and upheld the dismissal. Commonwealth v. LaPlante, 73 Mass. App. Ct. 199 (2008).

Need

- The current statute was enacted to fill the gap identified in Commonwealth v. Banfill, 413 Mass. 1002 (1992) which held that this same conduct -- attempting to lure a child into a motor vehicle -- was insufficient to establish attempted kidnapping. However, the Court's interpretation of the child enticement statute has left that gap unfilled.

- Specific unlawful intent should be presumed where a stranger attempts to lure a child into a vehicle; the current statute does not allow for such.

Legislative Fix

- Mirror existing child enticement statute in other jurisdictions by eliminating the requirement to prove a specific unlawful intent when a stranger entices a child under the age of 16 into a vehicle.

HOUSE No. 1202

The Commonwealth of Massachusetts

PRESENTED BY:

Paul Brodeur

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing protection from child enticement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Marian T. Ryan, Middlesex District Attorney</i>	<i>15 Commonwealth Avenue</i> <input type="checkbox"/> <i>Woburn, MA</i> <input type="checkbox"/> <i>01801</i> <input type="checkbox"/>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>

HOUSE No. 1202

By Mr. Brodeur of Melrose, a petition (accompanied by bill; House, No. 1202) of Paul Brodeur and others relative to providing protection from child enticement. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1230 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act providing protection from child enticement.

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

1 SECTION 1. Section 26C of chapter 265 of the General Laws, as amended by Chapter
2 267 of the Acts of 2010, is hereby amended by inserting after the existing subsection (b), a new
3 subsection (c) as follows:

4

5 (c) No person, by any means and without privilege to do so, shall knowingly entice any
6 child under the age of 16, or someone he believes to be a child under the age of 16, to enter into
7 any vehicle, if:

8 (1) The person does not have the express or implied permission of the parent, guardian,
9 or other legal custodian of the child in undertaking the activity; and

10 (2) (i) The person is not a law enforcement officer, emergency services provider as
11 defined in section 71-507, firefighter, or other person who regularly provides emergency
12 services, is not the operator of a bookmobile or other such vehicle operated by the state or a
13 political subdivision and used for informing, educating, organizing, or transporting children, is
14 not a paid employee of, or a volunteer for, a nonprofit or religious organization which provides
15 activities for children, and is not an employee or agent of or a volunteer acting under the
16 direction of any board of education or (ii) the person is a person listed in subdivision (c)(2)(i) of
17 this section but, at the time the person undertakes the activity, he or she is not acting within the
18 scope of his or her lawful duties in that capacity.

19 (3) It is an affirmative defense to a charge under this subsection (c) that the person
20 undertook the activity in response to a bona fide emergency situation or that the person
21 undertook the activity in response to a reasonable belief that it was necessary to preserve the
22 health, safety, or welfare of the child.

23 (4) Any person who violates this subsection (c) shall be punished by imprisonment in the
24 state prison for not more than 5 years, or in the house of correction for not more than 2 1/2 years,
25 or by both imprisonment and a fine of not more than \$5,000.

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing protection from child enticement.

PETITION OF:

NAME:

Jason M. Lewis

DISTRICT/ADDRESS:

Fifth Middlesex

SENATE No.

[Pin Slip]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act providing protection from child enticement.

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

1 Section 26C of chapter 265 of the General Laws, as appearing in the 2010 Official
2 Edition, is hereby amended by inserting after the subsection (b), the following subsection:-

3 (c) No person, by any means and without privilege to do so, shall knowingly entice any
4 child under the age of 16, or someone he believes to be a child under the age of 16, to enter into
5 any vehicle, if

6 (1) The person does not have the express or implied permission of the parent, guardian,
7 or other legal custodian of the child in undertaking the activity; and

8 (2) (i) The person is not a law enforcement officer, emergency services provider as
9 defined in section 71-507, firefighter, or other person who regularly provides emergency
10 services, is not the operator of a bookmobile or other such vehicle operated by the state or a
11 political subdivision and used for informing, educating, organizing, or transporting children, is
12 not a paid employee of, or a volunteer for, a nonprofit or religious organization which provides
13 activities for children, and is not an employee or agent of or a volunteer acting under the

14 direction of any board of education or (ii) the person is a person listed in subdivision (c)(2)(i) of
15 this section but, at the time the person undertakes the activity, he or she is not acting within the
16 scope of his or her lawful duties in that capacity. (3) It is an affirmative defense to a charge under
17 this subsection (c) that the person undertook the activity in response to a bona fide emergency
18 situation or that the person undertook the activity in response to a reasonable belief that it was
19 necessary to preserve the health, safety, or welfare of the child.



An Act Providing Protection from Subsequent Restraining Order Violations H. 1462

Lead Sponsor: Representative Jay Livingstone

Impetus

Repeated violations of a restraining order demonstrate an utter disregard for judicial authority, not to mention an abject disrespect for the personal space and desires of victims seeking protective relief from the Court in cases of domestic violence. In one Middlesex County case, a defendant showed up at a victim's apartment in violation of an active restraining order; but despite having 31 convictions on his Board of Probation Record (17 of which were for restraining order violations), this latest violation could only be prosecuted in District Court as a misdemeanor offense. This particular defendant had multiple restraining orders against him by 3 different women, spanning a 15 year time period.

Need

- Domestic violence is about power and control. Far too many abusers are unwilling to relinquish control, even after becoming the subject of an active restraining order.
 - Those who repeatedly violate restraining orders -- especially after having been previously convicted for the same offense -- have displayed a pattern of conduct for which additional prosecutorial tools may be necessary to protect victims from future acts of domestic violence.
 - Increasing the penalty for repeated restraining order violations may deter for future violations by establishing a heightened penalty.
-

Legislative Fix

- Provides prosecutors with the option of a felony charge in cases where a defendant has violated a restraining order and has one or more prior convictions for the same offense.
- This proposal creates a subsequent offense to increase the possible penalty for repeat offenders; however, it does not impose a mandatory minimum.

HOUSE No. 1462

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing protection from subsequent restraining order violations.

PETITION OF:

NAME:

Jay D. Livingstone

DISTRICT/ADDRESS:

8th Suffolk

HOUSE No. 1462

By Mr. Livingstone of Boston, a petition (accompanied by bill, House, No. 1462) of Jay D. Livingstone relative to the penalty for subsequent restraining order violations. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1302 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act providing protection from subsequent restraining order violations.

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

1 SECTION 1. Section 7 of chapter 209A of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by inserting at line 45, after the first sentence in the fifth
3 paragraph, the following:-

4 Whoever violates such order or a protection order issued by another jurisdiction after
5 having previously been convicted of violating an order issued pursuant to chapter 209A or a
6 protection order issued by another jurisdiction, or after having previously been convicted
7 pursuant to section 13A(b)(iii) or section 43(b) of chapter 265, shall be punished by
8 imprisonment in the state prison for not more than five years or imprisonment in the house of
9 correction for not more than two and one-half years.



An Act to Protect Property of Elder/Disabled Persons H. 1206

Lead Sponsor: Representative Paul Brodeur

Impetus

On July 26, 2010, an 86-year-old woman lay in a nursing home bed, just days away from her death. While heavily medicated, the woman was duped by her neighbor into signing over a quit-claim deed of her property. The neighbor was charged and convicted in the Middlesex Superior Court with larceny of property valued over \$250 from an elderly person. On appeal, the SJC reversed the conviction, determining that, in order to be found guilty, the Commonwealth must prove whether the defendant knew that the victim lacked capacity and could not rely on whether a reasonable person in the defendant's position would have known that the victim lacked the capacity to give consent.

Need

- The current statute requires the Commonwealth to prove that a defendant knew that an elderly or disabled victim lacked capacity to give consent, adding an unnecessary burden on prosecutors in these vulnerable victim cases.
 - With fraud and deception against older adults rising with the aging Baby Boomer Generation, a statute to protect seniors from financial exploitation is necessary.
 - Financial exploitation of an elder or disabled person is frequently committed by those closest to the victim, a family member, caretaker, friend, or neighbor.
 - Legal protections should exist to protect the state's senior population, especially considering the projected population growth. That is, nearly 1.5 million Massachusetts residents (about 21%) will be 65 years or older by 2030.
-

Legislative Fix

- Allows a defendant to be charged with unlawful possession of property if the elderly or disabled victim does not give consent.
- Provides elderly and disabled victims with restitution commensurate with the value of the property.
- If the victim has a caretaker, requires the caretaker to be present when property is conveyed to verify that the conveyance was voluntary and lawful.

HOUSE No. 1206

The Commonwealth of Massachusetts

PRESENTED BY:

Paul Brodeur

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect property of elder or disabled persons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Marian T. Ryan, Middlesex District Attorney</i>	<i>15 Commonwealth Avenue</i> <input type="checkbox"/> <i>Woburn, MA</i> <input type="checkbox"/> <i>01801</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>

<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

HOUSE No. 1206

By Mr. Brodeur of Melrose, a petition (accompanied by bill, House, No. 1206) of Paul Brodeur and others relative to punishments for property crimes against elderly or disabled persons. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to protect property of elder or disabled persons.

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

1 SECTION 1: Chapter 266, Section 30 is amended by adding subsection (6), as follows:

2 (6) Whoever, without consent of the owner, obtains possession or control over the

3 property of another, sixty years of age or older, or of a person with a disability as defined in

4 section thirteen K of chapter two hundred and sixty-five, if the value of such property exceeds

5 one thousand dollars, shall be guilty of unlawful possession of property, and shall be punished by

6 imprisonment in the state prison for not more than five years or in the house of correction for not

7 more than two and one-half years, or by a fine of not more than twenty-five thousand dollars or

8 by both such fine and imprisonment; if the property is an interest in real estate, whoever is guilty

9 of unlawful possession of property shall be punished by imprisonment in the state prison for not

10 more than ten years or in the house of correction for not more than two and one-half years, or by

11 a fine of not more than fifty thousand dollars or by both such fine and imprisonment, and shall

12 restore or forfeit such interest in real estate to the owner. The court may order, regardless of the

13 value of the property, restitution to be paid to the victim commensurate with the value of the
14 property. If there is a caretaker as defined in section thirteen K of chapter two hundred and
15 sixty-five for the person who is the owner, the consent of the owner shall not be deemed
16 voluntary and lawful to convey the property unless witnessed in writing by the caretaker. A
17 caretaker may not witness the consent of the owner if the caretaker intends to receive or does
18 receive any interest in the property conveyed or any other benefit as witness.



**An Act Relative to Victim's Rights
H. 1156**

Lead Sponsor: Representative Cory Atkins

Impetus

John Salvi attacked two abortion clinics, killed two women, and wounded five others. He was found guilty and appealed his conviction. While the case was on appeal, he committed suicide in prison.

Father John Geoghan was convicted of indecent assault and battery on a child under the age of 14. While his conviction was on appeal, he was murdered in prison by another inmate.

Gordon White, a 46-year-old Hudson man, was found guilty of possession of child pornography and distributing material of a child in a sexual act. He died while his appeal was pending.

All of these convictions were vacated because Massachusetts law requires that convictions be vacated if a defendant dies while his/her appeal is under review.

Need

- A jury's unanimous verdict that the Commonwealth proved the defendant's guilt beyond a reasonable doubt validates victims; this validation should not be vacated based simply on the arbitrary timing of the defendant's death.
 - This procedure has a callous impact on surviving victims of violent crime, as well as the family members of homicide victims.
-

Legislative Fix

- Brings Massachusetts in line with the majority of states that leave the conviction intact if the defendant dies during the pendency of an appeal.

HOUSE No. 1156

The Commonwealth of Massachusetts

PRESENTED BY:

Cory Atkins

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to victims rights.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

HOUSE No. 1156

By Ms. Atkins of Concord, a petition (accompanied by bill, House, No. 1156) of Cory Atkins and others for legislation relative to victims rights. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1178 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to victims rights.

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

1 SECTION 1. Chapter 228 of the General Laws is hereby amended by inserting after
2 section 14 the following section:-

3 Section 15. The death of a criminal defendant who is convicted of a criminal offense shall
4 automatically terminate the right to appeal or any appeal pending of such conviction, and where
5 such conviction has not been previously vacated or reversed by an order or decision of a court,
6 the judgment of conviction shall stand.

7 This section shall not preclude the attorney general or district attorney from commencing
8 an action to vacate the conviction judgment against a deceased defendant in the interest of
9 justice.



An Act Relevant to the Discharge of Persons Incompetent to Stand Trial H. 1802

Lead Sponsor: Jay Livingstone

Impetus

The core mission of a District Attorney's Office is to protect public safety. District Attorneys often possess relevant information regarding offenders who are civilly committed after having been found incompetent to stand trial or not guilty by reason of insanity -- information of which a treatment facility may be unaware and which could impact the decision regarding where the offender is being relocated to ensure adequate distance from victims and mitigation of other risk factors.

Need

- For District Attorneys to be given the opportunity to present relevant information about offenders, as well important victim safety considerations, prior to a transfer.
 - To ensure that victims and witnesses are kept abreast of an offender's custody status and location.
-

Legislative Fix

- Upon notification to the District Attorney of a facility's intent to transfer or discharge an offender found not guilty by reason of insanity or incompetent to stand trial, inform the District Attorney where an offender will be located.

HOUSE No. 1802

The Commonwealth of Massachusetts

PRESENTED BY:

Jay D. Livingstone

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the discharge of persons incompetent to stand trial.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Middlesex District Attorney Marian T. Ryan</i>	<i>Office of the Middlesex District Attorney</i> <input type="checkbox"/> <i>15 Commonwealth Avenue</i> <input type="checkbox"/> <i>Woburn, MA 01801</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>

HOUSE No. 1802

By Mr. Livingstone of Boston, a petition (accompanied by bill, House, No. 1802) of Jay D. Livingstone, Middlesex District Attorney Marian T. Ryan and Paul R. Heroux for legislation relative to the discharge of persons incompetent to stand trial. Mental Health and Substance Abuse.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 918 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to the discharge of persons incompetent to stand trial.

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

1 SECTION 1. Section 16 of chapter 123 of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended in subsection (e), by striking the words "jurisdiction of the
3 criminal case." in line 63, and inserting in place thereof the following:-

4 "jurisdiction of the criminal case; provided that, notwithstanding any laws or regulations
5 to the contrary, the superintendent or medical director shall at this time also provide information
6 to said district attorney regarding the intended placement of the person, or the residential address
7 to which that person shall return upon their discharge; provided further that placement or address
8 information provided pursuant to this section shall not be subject to section 10 of chapter 66 of
9 the General Laws."



An Act to Clarify Penalties for Violations Occurring While Driving with a Hardship License

H. 3032

Lead Sponsor: Representative David Linsky

Impetus

In Commonwealth v. Murphy, 68 Mass. App. Ct. 152 (2007), the defendant, whose license was suspended for driving under the influence, was granted a hardship license but continued to drive beyond the terms of the hardship license. Despite the required punishment of 60 days in jail for driving a motor vehicle with a license suspended for driving under the influence, the defendant only faced a \$100 fine because he had been granted a hardship license.

A defendant whose license was suspended for driving under the influence based on a conviction in another state could not be convicted of driving on a license suspended for operating under the influence because out of state convictions are not included in the statute.

Need

- There are several loopholes in our driving under the influence laws.
 - The granting of a hardship license during a suspension period should not lessen the penalty an individual faces when continuing to drive unlawfully.
 - Convictions in other states for driving under the influence should not be treated differently than convictions in Massachusetts.
 - Driving after a license suspension for refusing a breathalyzer should qualify for the same enhanced penalty that applies to a license suspension after driving under the influence.
-

Legislative Fix

- Correct the hardship license loophole by amending the statute to treat driving outside the terms of a hardship license the same as driving on a license suspended for operating under the influence.
- Include driving under the influence revocations by other jurisdictions to trigger the enhanced Massachusetts penalties.
- Provide the same penalty for driving on a license suspended for refusing a breathalyzer as driving on a license suspended for operating under the influence.

HOUSE No. 3032

The Commonwealth of Massachusetts

PRESENTED BY:

David Paul Linsky

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to clarify penalties for violations occurring while driving with a hardship license.

PETITION OF:

NAME:

David Paul Linsky

DISTRICT/ADDRESS:

5th Middlesex

HOUSE No. 3032

By Mr. Linsky of Natick, a petition (accompanied by bill, House, No. 3032) of David Paul Linsky relative to clarifying violations that occur while driving with a hardship license. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3093 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to clarify penalties for violations occurring while driving with a hardship license.

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

1 Section 1. Section 23 of Chapter 90 of the General Laws, as amended by section 67 of
2 the Acts of 2009, is hereby amended in paragraph two by inserting, after the words "(1) of
3 section twenty-four," the following:-

4 "pursuant to paragraph (f)(1) of subdivision (1) of section twenty-four,";

5 and in the same paragraph by inserting, after the words "section eight A or section eight
6 B of chapter ninety B, or pursuant to a violation of section 8, 9 or 11 of chapter ninety F," the
7 following:-

8 "or pursuant to a similar or like statute of another jurisdiction," ;

9 and in the same paragraph by inserting, after the words "right to operate or the issuance
10 to him of a new license to operate," the following:-

11 "or whoever operates a motor vehicle in violation of the terms of a hardship license
12 granted pursuant to M.G.L. Chapters 90, 90A or 90B," ;

13 and in paragraph four by inserting, after the words "pursuant to paragraph (a) of
14 subdivision (1) of sections 24, sections 24G or 24L, subsection (a) of section 8 of chapter 90B,
15 sections 8A or 8B of chapter 90B or section 13 ½ of chapter 265 ," the following:-

16 "or pursuant to a similar or like statute of another jurisdiction, or whoever operates a
17 motor vehicle in violation of paragraph (a) of subdivision (1) of section 24, sections 24G or 24L,
18 subsection (a) of section 8 of chapter 90B, sections 8A or 8B of chapter 90B or section 13 ½ of
19 chapter 265 , where such operation was pursuant to a hardship license granted pursuant to
20 M.G.L. Chapters 90, 90A or 90B or where such operation was outside the terms of such hardship
21 license," .



An Act for Legislation Relative to Costs of Appeals by the Commonwealth SD. 573

Lead Sponsor: Senator Cynthia Creem

Impetus

In a case where the Commonwealth successfully appealed a trial judge's erroneous reduction of the jury's verdict from assault with intent to rape to indecent assault and battery, the Commonwealth (from the District Attorney's budget) had to reimburse the defendant's privately retained attorney over \$28,000 because Massachusetts is one of a handful of states that awards attorney's fees to defendants on appeals taken by the Commonwealth.

Need

- Currently in Massachusetts, taxpayers reimburse privately retained defense attorneys in cases where the Commonwealth appeals, regardless of whether the Commonwealth wins or loses. In cases where the defendant has persuaded a judge to rule in error, taxpayers should not have to pay privately retained attorneys to have that erroneous decision reversed.
 - The reimbursement of privately retained defense attorneys is a significant expense, especially when compared to the \$37,500 annual salary of a starting assistant district attorney, and is paid out of the budget of the District Attorney. The finite resources available to a District Attorney can preclude an office's ability to pursue an appeal.
-

Legislative Fix

- Limit a defendant's right to reimbursement of attorney's fees only in cases where the Commonwealth loses after an appeal pursued by the Commonwealth.

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relating to costs of appeals by the Commonwealth.

PETITION OF:

NAME:

Cynthia S. Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

SENATE No.

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 662 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relating to costs of appeals by the Commonwealth.

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

1 SECTION 1. Section 28E of Chapter 278 of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by adding, after the third paragraph thereof, the following
3 paragraph:

4 A defendant who is not indigent, as defined by Chapter 211D of the General Laws, and is
5 therefore not entitled to public representation, is responsible for his own costs on appeal, unless
6 the Commonwealth loses the appeal or the Commonwealth's application thereof is denied. In
7 such cases, a defendant is entitled to be reimbursed for the costs he incurred as a result of the
8 appeal, including reasonable attorney's fees, subject to approval of the court.



An Act Providing Further Protection for Grand Jurors H. 1556

Lead Sponsor: David Rogers

Impetus

Grand Jurors are empaneled for a term of three months. Trial Jurors are empaneled for either one day or the length of a trial. However, despite the greater time commitment required of Grand Jurors, both sets of jurors are currently exempt from future service for the *same* amount of time (three years). Individuals selected for grand jury service are apprehensive about the time commitment involved, and have expressed concern about being able to keep their jobs if selected for jury service.

Need

- The time commitment required of Grand Jurors significantly exceeds the time commitment of trial jurors; hence, the current three-year exemption for Grand Jurors lacks equity.
- Grand Jurors should be advised, in writing, that employer retribution poses civil and criminal consequences, and that workplace protections exist for jurors.

Legislative Fix

- Permit Grand Jurors to be exempt from jury duty for six years rather than the three years.
- Amend the juror's handbook established by G.L. c. 234A, § 62 to provide information about employer civil and criminal liability.

HOUSE No. 1556

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Rogers

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

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act providing further protection for grand jurors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>

HOUSE No. 1556

By Mr. Rogers of Cambridge, a petition (accompanied by bill, House, No. 1556) of David M. Rogers, Mary S. Keefe and Carolyn C. Dykema for legislation to provide further protection for grand jurors. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 646 OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act providing further protection for grand jurors.

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

1 SECTION 1. Clause (8) of section 4 of chapter 234A of the General Laws, as appearing
2 in the 2012 Official Edition, is hereby amended by striking out the words "grand or" from the
3 first sentence.

4 SECTION 2. Section 4 of chapter 234A, as so appearing, is hereby further amended by
5 adding the following clause:-

6 9. Such person has served as a grand juror in any state or federal court within the
7 previous six calendar years or the person is currently scheduled to perform such service. Any
8 person claiming this disqualification must submit a letter or certificate from the appropriate clerk

9 of court or jury commissioner verifying such prior or pending juror service unless such service
10 was performed or is pending in a court of the commonwealth.

11 SECTION 3. Section 62 of chapter 234A, as so appearing, is hereby amended by
12 inserting, after the eleventh sentence, the following sentence:- These materials shall include an
13 explanation of employer civil and criminal liability under sections 60 and 61 of this chapter.

