

By Mr. Flaherty of Boston, petition of Michael F. Flaherty for legislation to further define the conditions required for the allowance of a stay of execution pending appeals in criminal cases. The Judiciary.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Three.

AN ACT FURTHER DEFINING THE CONDITIONS REQUIRED FOR THE ALLOWANCE OF A STAY OF EXECUTION PENDING APPEAL IN A CRIMINAL CASE.

*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 4 of chapter 279 of the General Laws, as most recently  
2 amended by Section 17 of Chapter 740 of the Acts of 1972, is  
3 hereby further amended by striking out the second sentence thereof  
4 and inserting in its place the following: — No sentence of impri-  
5 sonment shall be stayed pending an appeal or other post-  
6 conviction proceeding unless the defendant establishes to the satis-  
7 faction of the judge imposing the sentence or a judge of the  
8 Supreme Judicial Court or Appeals Court, that (1) the defendant,  
9 if admitted to bail, would not pose a danger to himself or to others,  
10 (2) that the appeal or post-conviction proceeding is not undertaken  
11 merely for the purpose of obtaining the stay, and (3) in the case of a  
12 felony, there is a substantial likelihood of success on the appeal or  
13 if the past-conviction proceedings is not frivolous. The judge may  
14 condition the stay upon the defendant's diligent prosecution of the  
15 appeal or post-conviction proceedings, and if execution or sent-  
16 ence is stayed, the judge may at the same time make an order  
17 relative to the custody of the defendant or for admitting him to  
18 bail.

The Government of . . .

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