

By Mr. Ames, a petition of Elliot L. Richardson and Oliver F. Ames for legislation to establish authority and procedures to confer immunity on witnesses. Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Seven.

AN ACT ESTABLISHING AUTHORITY AND PROCEDURES TO CONFER IMMUNITY ON WITNESSES.

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

1 Chapter 12 of the General Laws is hereby amended by add-
2 ing thereto a new section 10A as follows: —

3 *Section 10A.* Immunity — Authority and Procedures to
4 Confer on Certain Witnesses.

5 (1) Competent authority may confer immunity on a wit-
6 ness in any investigation or proceeding upon the express re-
7 quest of the Attorney General of the Commonwealth or upon
8 the express request of a district attorney in those investiga-
9 tions or proceedings within the jurisdiction and under the
10 control of said district attorney. Immunity shall not be con-
11 ferred upon any person except in accordance with the provi-
12 sions of this section.

13 (2) In any investigation or proceeding where a competent
14 authority confers immunity, if a person refuses to answer a
15 question or produce evidence of any other kind on the ground
16 that he may be incriminated thereby, and, notwithstanding
17 such refusal an order is made by such competent authority
18 that such person answer the question or produce the evidence,
19 such person shall comply with the order. If such person com-
20 plies with the order, and if, but for this section, he would have
21 been privileged to withhold the answer given or the evidence
22 produced by him, then immunity shall be conferred upon him,
23 as provided for herein.

24 (3) For the purposes of this section the following definitions
25 shall apply:

26 (a) "Immunity" as used herein shall mean that such person
27 as described in section 10A hereof shall not be prosecuted or
28 subjected to any penalty or forfeiture for or on account of any
29 transaction, matter or thing concerning which, in accordance
30 with the order by competent authority, he gave answer or pro-
31 duced evidence, and that no such answer given or evidence pro-
32 duced shall be received against him upon any criminal pro-
33 ceeding. But he may nevertheless be prosecuted or subjected
34 to penalty or forfeiture for any perjury or contempt commit-
35 ted in answering, or failing to answer, or in producing or fail-
36 ing to produce evidence, in accordance with the order, and any
37 such answer given or evidence produced shall be admissible
38 against him upon any criminal proceeding concerning such per-
39 jury or contempt.

40 (A) "Competent authority", as used herein, shall mean
41 either

42 (i) a court before whom a person is called to answer ques-
43 tions or produce evidence in a criminal proceeding other than
44 a proceeding before a grand jury, when such court is expressly
45 requested by the prosecuting attorney to order such person to
46 give answer or produce evidence; or

47 (ii) The court before whom a person is called to answer
48 questions or produce evidence in a civil proceeding to which the
49 Commonwealth or a political subdivision thereof, or a depart-
50 ment or agency of the Commonwealth or of such political sub-
51 division, or an officer of any of them in his official capacity, is
52 a party, when such court is expressly requested by the Attorney
53 General of the Commonwealth to order such person to give an-
54 swer or produce evidence; or

55 (iii) the grand jury before which a person is called to an-
56 swer questions or produce evidence, with the approval of a
57 justice of the Superior Court, when such grand jury is ex-
58 pressly requested by the prosecuting attorney to order such
59 person to give answer or to produce evidence.