

By Mr. Sisitsky, a petition (accompanied by bill, Senate, No. 1055) of Francis X. Bellotti, Attorney General, Alan D. Sisitsky, Arthur Joseph Lewis, Jr., and Michael F. Flaherty for legislation relative to material witnesses. The Judiciary.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

### AN ACT RELATING TO MATERIAL 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 276 of the General Laws is hereby amended by  
2 striking out Sections 49 and 50 and inserting in place thereof  
3 the following sections: —

4 *Section 49. Material Witnesses.*

5 (a) If it appears from an affidavit filed by a party that  
6 there is probable cause to believe that: (1) the testimony of  
7 a person may be material in any criminal proceeding; and  
8 (2) it may become extremely difficult and unlikely to secure  
9 his presence by subpoena, a court may direct that person be  
10 taken into custody.

11 (b) Any person taken into custody under subsection (a)  
12 shall, without unnecessary delay, be brought before a court,  
13 where the matter may be reviewed, bail set, appropriate con-  
14 ditions of release imposed, or the presence of the person other-  
15 wise secured.

16 (c) No person shall be held in custody because of an in-  
17 ability to meet bail or to comply with a condition of release  
18 if the testimony of such person can be adequately secured by  
19 deposition and if further custody is not necessary to prevent  
20 a failure of justice. Release may be delayed for a reasonable  
21 period of time until the deposition may be taken.

22 *Section 49A. Witness Protection.*

23 The Commissioner of Correction may provide for the se-  
24 curity of witnesses, potential witnesses, or informants, and  
25 their immediate families, in official proceedings involving or-

26 ganized criminal activity or involving conduct the investiga-  
27 tion or prosecution of which is likely to cause a retaliation  
28 against a witness or an informant. The Commissioner of Cor-  
29 rection may provide housing facilities or otherwise provide  
30 for the security, health, safety, and welfare of witnesses, po-  
31 tential witnesses, or informants and their immediate families  
32 if, in his judgment, testimony or the furnishing of information  
33 by such a witness or informant might subject the witness or  
34 informant or a member of his immediate family to a danger  
35 of bodily injury and may continue to make such provision for  
36 as long as, in his judgment, such danger exists. The Commis-  
37 sioner of Correction is authorized to purchase, rent, or modify  
38 protected housing facilities for the purpose of this section.