
By Mr. Lewis, a petition (accompanied by bill, Senate, No. 769) of Francis X. Bellotti, 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 Seventy-nine.

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 a law enforcement officer has reasonable cause to
6 believe that: (1) the testimony of a person may be material
7 in any criminal proceeding; and (2) it may become imprac-
8 ticable to secure his presence by subpoena; he may take the
9 person into custody.

10 (b) If it appears from an affidavit filed by a party that
11 there is a reasonable cause to believe that: (1) the testimony
12 of a person may be material in any criminal proceeding; and
13 (2) it may become impracticable to secure his presence by
14 subpoena; a court may direct that person be taken into cus-
15 tody.

16 (c) Any person taken into custody under subsections (a)
17 or (b) shall, without unnecessary delay, be brought before a
18 court, where the matter may be reviewed, bail set, appropriate
19 conditions of release imposed, or the presence of the person
20 otherwise secured.

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

27 *Section 49A. Witness Protection.*

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