

By Mr. Pierce of Westfield, petition of Steven D. Pierce for legislation to regulate the accruing of financial benefits to criminals who offer for sale the rights to stories of crimes from which they were convicted. Criminal Justice.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE NOTORIETY-FOR-PROFIT STATUTE IN 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. Chapter 258A of the General Laws, as appearing
2 in the 1986 Official Edition, is hereby amended by striking out
3 Section 8 and inserting in place thereof the following new
4 Chapter: —

5 **CHAPTER 258B. NOTORIETY FOR PROFIT ACT.**

6 Section 1. PREAMBLE.

7 The General Court and the citizens of this Commonwealth find
8 and declare that it is against the public policy of this Common-
9 wealth to allow a criminal to benefit financially from the sale of
10 rights to the story of the crime for which he was convicted, and
11 that proceeds obtained from such a sale should be available to
12 provide restitution and a source of financial relief to victims for
13 personal physical, financial and emotional injuries and loss of
14 property resulting from the crime and to assist the Victims of
15 Violent Crime Compensation Fund.

16 Section 2. TITLE.

17 This act shall be known as the "Notoriety for Profit Act".

18 Section 3. DEFINITIONS.

19 For the purposes of section eight of this chapter the following

20 words shall have the following meanings, unless the context
21 otherwise requires: —

22 “Account,” An interest-bearing account established in the name
23 of the defendant and the state treasurer into which payments
24 received by the state treasurer in the name of the defendant are
25 deposited under this Act’s provisions:

26 “Contract,” An agreement entered into by, or on behalf of, a
27 defendant in which the defendant agrees to recount any aspect
28 of the crime for reenactment or publicity in any form, including
29 but not limited to any movie, television broadcast, photograph,
30 book, play, interview, article, lecture or recording, in exchange
31 for monetary or other remuneration;

32 “Court,” The Superior Court for the district in which the crime
33 was committed;

34 “Defendant,” A person charged with or convicted of a crime;

35 “Victim,” A person, firm, corporation, partnership, association,
36 or the Commonwealth or any political subdivision thereof, who
37 suffers personal physical, financial or emotional harm or loss
38 resulting from a crime; the parent, child, spouse, next of kin or
39 legal representative of a deceased victim; or the parent, guardian
40 or custodian of an incapacitated or minor victim;

41 “Crime,” Any felony or misdemeanor committed in the
42 Commonwealth.

43 Section 4. OBLIGATIONS OF PARTY ENTERING INTO 44 CONTRACT WITH OFFENDER.

45 Any person, firm, corporation, partnership, association, or
46 other legal entity who enters into a contract with the defendant
47 or representative or agent of defendant shall:

48 (A) Within ten days of the execution of said contract provide
49 a copy of the contract to the Attorney General, the prosecuting
50 District Attorney if any, and the state treasurer, and;

51 (B) Pay all remuneration due the defendant or the representa-
52 tive or agent of the defendant under the terms of the contract to
53 the state treasurer until notified by the state treasurer that this
54 Act no longer applies to the contract.

55 Section 5. RESPONSIBILITIES AND AUTHORITY OF 56 THE STATE TREASURER, ATTORNEY GENERAL AND 57 THE DISTRICT ATTORNEY.

58 (A) The state treasurer shall administer the accounts
59 established under this Act's provisions and shall make
60 disbursements from the account, as provided by this act.

61 (B) Upon receipt of a contract, the state attorney general and
62 the prosecuting district attorney shall:

63 (1) Make a reasonable attempt to ascertain the victims who
64 may be entitled to payments derived from the contract, and notify
65 these victims individually of the general provisions of the contract
66 and of this Act, and

67 (2) publish in a newspaper of general circulation in the
68 district in which the crime was committed a notice about receipt
69 of the contract and the general provisions of this Act. The notice
70 shall include the name of the defendant, the crime for which the
71 defendant has been charged and/or convicted, the date and place
72 of the crime and the status of the case. It shall not include the
73 name or address of victims.

74 (C) Upon receiving an initial payment under a contract, the
75 state treasurer shall establish an account in the name of the
76 defendant and the state treasurer. The state treasurer shall deposit
77 all payments received under the contract into the account.

78 (D) The state treasurer shall maintain records on each account
79 and, upon request, furnish information about the status of the
80 account to the: defendant, the victim, the attorney general or the
81 district attorney and any court with jurisdiction over the
82 defendant.

83 (E) The state treasurer shall make disbursements from the
84 account and close the account in accordance with subsection seven
85 and eight of this Act.

86 (F) The Attorney General or District Attorney of the District
87 in which the crime was committed may bring a civil action in the
88 court to compel compliance with this Act through injunctive relief
89 or any other means the court deems necessary.

90 Section 6. PROCEDURE, BURDEN OF PROOF . . . etc.

91 (A) Notwithstanding any inconsistent law regarding the timely
92 filing of a civil action, at any time up to five years from the date
93 the account has been established, a victim may initiate a civil
94 action aganst the defendant or his representative for recovery of
95 damages relative to personal physical, financial or emotional

96 injuries and property loss resulting from the crime or crimes giving
97 rise to a contract.

98 (B) Evidence of an order requiring the defendant to make
99 restitution to the victim as part of the disposition of a criminal
100 prosecution shall be prima facie evidence of liability under this
101 chapter.

102 (C) The standard of proof in the civil action commenced by
103 the victim shall be that of a preponderance of the evidence.

104 (D) No disbursements shall be made from the account except
105 until as provided in subsection 7 of this Act, until 5 years have
106 passed since the creation of said account.

107 (E) Immediately upon a finding of guilty or not guilty or a
108 dismissal or other final disposition of the charges against the
109 defendant, the attorney general and/or district attorney shall
110 inform the state treasurer and the court of the outcome of the case.

111 Section 7. COURT DIRECTION OF DISBURSEMENTS
112 FROM THE ACCOUNT.

113 (A) All disbursements from the account shall be made as
114 directed by the court in which the action brought under subsection
115 6 (A) is pending to the extent funds are available in the account
116 pursuant to this Act.

117 (B) If the defendant is found not guilty or the charges against
118 the defendant are dismissed or a nolle prosequi, and the period
119 during which the Commonwealth may appeal interlocutory orders
120 terminating prosecution has lapsed, the State Treasurer shall
121 immediately pay over to the defendant all funds in the account,
122 and close the account.

123 (C) The state treasurer shall make no disbursements from the
124 account until the defendant is found guilty and the direct appeal,
125 if any, results in an affirmance of the conviction for the crime,
126 or if no appeal is filed and the time has lapsed for filing a direct
127 appeal.

128 (D) The court may direct the state treasurer to disburse from
129 the account:

130 (1) amounts to satisfy a civil judgment which the victim has
131 obtained against the defendant based on financial, physical, or
132 emotional injury or property loss resulting from the crime; and

133 (2) amounts to satisfy an order of unpaid restitution imposed

134 on the defendant pursuant to a disposition of any complaint or
135 indictment resulting from the crime or crimes which gave rise to
136 the contract; and

137 (3) an amount to be paid under an order imposed by the
138 court in accordance with sections eight and nine of Chapter two
139 hundred and fifty-eight B of the General Laws.

140 (E) If more than one victim obtains a judgment pursuant to
141 this Act and the funds in the account are insufficient to satisfy
142 the total judgments ordered, the state treasurer shall pay each
143 victim an amount equal to the percentage each victim's unpaid
144 judgment bears to the total amount of the unpaid judgments.

145 Section 8. CLOSURE OF THE ACCOUNT.

146 (A) The state treasurer shall close the account and distribute
147 all remaining funds to the defendant and the victim of violent
148 crime compensation fund as established under Section 50 of
149 Chapter 10 of the General Laws, if:

150 (1) five years have passed since the creation of the account;
151 and

152 (2) full satisfaction has been made for all disbursements
153 directed to be satisfied from the account under subsection seven,
154 or partial satisfaction has been made to the extent of the total
155 amount of funds payable to the defendant under the contract less
156 any other disbursements made under subsection seven of this Act;
157 and

158 (3) provided that the account shall not be closed until any
159 cause of action which may result in a claim against the account
160 and which has been filed by a victim in the Court within five years
161 following the creation of the account has been resolved.

162 (B) Immediately upon closing the account, the state treasurer
163 shall inform the party contracting with the defendant that the Act
164 no longer applies to the contract.

165 Section 9. ACTIONS TAKEN TO AVOID PURPOSE OF
166 LAW.

167 Any action taken by a defendant, any party contracting with
168 the defendant, or their agents or representatives, whether by way
169 of execution of a power of attorney, creation of corporate entities
170 or otherwise, to defeat the purpose of this Chapter shall be null
171 and void as against the public policy of this state.

172 Section 10. RETROACTIVE APPLICATION.

173 This Act shall apply to all contracts entered into on or after
174 January 10, 1978.

175 Section 11. SEVERABILITY.

176 The provisions of this Act are severable and if any such
177 provision or provisions shall be held invalid by any decision of
178 any court of competent jurisdiction, such decision or decisions
179 shall not impair or otherwise affect any other provision of this
180 Act.

1 SECTION 2. ESTABLISHING A VICTIMS OF VIOLENT
2 CRIME COMPENSATION FUND.

3 Chapter ten of the General Laws, as appearing in the 1986
4 Official Edition, is hereby amended by inserting after section
5 forty-nine the following new section: —

6 Section 50. There shall be established on the books of the
7 Commonwealth a separate fund to be known as the “Victims of
8 Violent Crime Compensation Fund”, consisting of revenues
9 received under the provisions of section eight of chapter two
10 hundred and fifty-eight A, and all other monies credited or
11 transferred thereto from any other fund or source pursuant to the
12 law.

13 The state treasurer shall receive, deposit and invest all monies
14 transmitted to him or her under the provisions of this section in
15 such manner that will insure the highest interest rate available
16 consistent with safety of the fund and with the requirement that
17 monies transmitted to the state treasurer pursuant to section eight
18 of chapter two hundred and fifty-eight A be available for
19 immediate withdrawal for payment in accordance with said
20 chapter.

21 The state treasurer shall carry out his responsibilities relative
22 to such fund in accordance with chapter two hundred and fifty-
23 eight A, section eight.



