

# HOUSE . . . . . No. 4125

By Mr. Cox of Lowell, petition of John F. Cox for legislation to restrict proceeds received by criminals as a result of notoriety achieved through the commission of a crime. The Judiciary.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

### AN ACT RELATIVE TO RESTRICTING PROCEEDS RECEIVED BY CRIMINALS AS A RESULT OF NOTORIETY ACHIEVED THROUGH THE COMMISSION OF A CRIME.

*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 adding the  
3 following text to Section 1: —

4 For the purpose of section eight of this chapter the following  
5 words shall have the following meanings, unless the context  
6 otherwise requires: —

7 "Account", An interest-bearing account established in the name  
8 of the defendant and the state treasurer into which payments  
9 received by state treasurer in the name of the defendant are  
10 deposited under the Act's provision:

11 "Contract," An agreement entered into by, or on behalf of, a  
12 defendant in which the defendant agrees to recount any aspect  
13 of the crime reenactment or publicity in any form, including but  
14 not limited to any movie, television broadcast, photograph, book,  
15 play, interview, article, lecture or recording, in exchange for  
16 monetary or other remuneration;

17 "Court," The Superior Court for the district in which the crime  
18 was committed;

19 "Defendant," A person charged with or convicted of a crime;

20 "Victim," A person, firm, corporation, partnership, association,  
21 or the commonwealth or any political subdivision thereof, who  
22 suffers personal physical, financial or emotional harm or loss  
23 resulting from a crime; the parent, child, spouse, next of kin or  
24 legal representative of a deceased victim; or the parent, guardian  
25 or custodian of an incapacitated or minor victim;  
26 "Crime," Any felony or misdemeanor committed in the  
27 Commonwealth.

1 SECTION 2. Chapter 258A of the General Laws, as appearing  
2 in the 1986 Official Edition, is hereby amended in Section 8 by  
3 striking everything after the title and inserting in place thereof the  
4 following new text:

5 Any person, firm, corporation, partnership, association or  
6 other legal entity who enters into a contract with the defendant  
7 or representative or agent of the defendant with respect to the  
8 reenactment of such crime, by way of a movie, book, magazine  
9 article, radio or television presentation, live entertainment of any  
10 kind, or from the expression of such person's thoughts, feelings,  
11 opinions or emotions regarding such crime, shall: —

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

15 (B) Pay all remuneration due the defendant or the representa-  
16 tive or agent of the defendant under the terms of the contract to  
17 the state treasurer until notified by the state treasurer that this  
18 Act no longer applies to the contract.

19 The responsibilities and authority of the state treasurer,  
20 attorney general and the district attorney under Section 8 of  
21 chapter 258A are as follows: —

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

25 (B) Upon receipt of a contract, the state attorney general and  
26 the prosecuting district attorney shall: —

27 (1) Make a reasonable attempt to ascertain the victims who may  
28 be entitled to payments derived from the contract, and notify these  
29 victims individually of the general provisions of the contract and  
30 of this Act, and

31 (2) Publish in a newspaper of general circulation in the district  
32 in which the crime was committed a notice about receipt of the  
33 contract and the general provisions of this Act. The notice shall  
34 include the name of the defendant, the crime for which the  
35 defendant has been charged and/or convicted, the date and place  
36 of the crime and the status of the case. It shall not include the  
37 name or address of victims.

38 (C) Upon receiving an initial payment under a contract, the state  
39 treasurer shall establish an account in the name of the defendant  
40 and the state treasurer. The state treasurer shall deposit all  
41 payments received under the contract into the account.

42 (D) The state treasurer shall maintain records on each account  
43 and, upon request, furnish information about the status of the  
44 account to the: defendant, the victim, the attorney general or the  
45 district attorney and any court with jurisdiction over the  
46 defendant.

47 (E) The state treasurer shall make disbursements from the  
48 account and close the account in accordance with subsection two  
49 and three of this Act.

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

54 Section 1. Procedure and burden of proof under this section  
55 shall be as follows: —

56 (A) Notwithstanding any inconsistent law regarding the timely  
57 filing of a civil action, at any time up to five years from the date  
58 the account has been established, a victim may initiate a civil  
59 action against the defendant or his representative for recovery of  
60 damages relative to personal, physical, financial or emotional  
61 injuries and property loss resulting from the crime or crimes giving  
62 rise to a contract.

63 (B) Evidence of an order requiring the defendant to make  
64 restitution to the victim as part of the disposition of a criminal  
65 prosecution shall be prima facie evidence of liability under this  
66 chapter.

67 (C) The standard of proof in the civil action commended by  
68 the victim shall be that of a preponderance of the evidence.

69 (D) No disbursement shall be made from this account except  
70 until as provided in subsection 2 of this Act, until 5 years have  
71 passed since the creation of said account.

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

76 Section 2. Court direction of disbursements from the account  
77 shall be as follows: —

78 (A) All disbursements from the account shall be made as  
79 directed by the court in which the action brought under subsection  
80 6(A) is pending to the extent funds are available in the account  
81 pursuant to this Act.

82 (B) If the defendant is found not guilty or the charges against  
83 the defendant are dismissed or a nolle prosequi, and the period  
84 during which the Commonwealth may appeal interlocutory orders  
85 terminating prosecution has lapsed, the state treasurer shall  
86 immediately pay over to the defendant all funds in the account,  
87 and close the account.

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

93 (D) The court may direct the state treasurer to disburse from  
94 the account:

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

98 (2) amounts to satisfy an order of unpaid restitution imposed  
99 on the defendant pursuant to a disposition of any complaint or  
100 indictment resulting from the crime or crimes which gave rise to  
101 the contract; and

102 (3) an amount to be paid under an order imposed by the court  
103 in accordance with sections eight and nine of chapter two hundred  
104 and fifty-eight B of the General Laws.

105 (E) If more than one victim obtains a judgment pursuant to this  
106 Act and the funds in the account are insufficient to satisfy the total

107 judgments ordered, the state treasurer shall pay each victim an  
108 amount equal to the percentage each victim's unpaid judgment  
109 bears to the total amount of the unpaid judgments.

110 Section 3. Closure of this account shall occur as follows: —

111 (A) The state treasurer shall close the account and distribute  
112 50% of the remaining funds to the victim of violent crime  
113 compensation fund, established under section 52 of chapter 10 of  
114 the General Laws and 50% to the defendant if

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

116 (2) full satisfaction has been made for all disbursements directed  
117 to be satisfied from the account under subsection two, or partial  
118 satisfaction has been made to the extent of the total amount of  
119 funds payable to the defendant under the contract less any other  
120 disbursements made under subsection two of this Act; and

121 (3) provided that the account shall not be closed until any cause  
122 of action which may result in a claim against the account and  
123 which has been filed by a victim in the court within five years  
124 following the creation of the account has been resolved.

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

128 Any action taken by a defendant, any party contracting with  
129 the defendant, or their agents or representatives, whether by way  
130 of execution of a power of attorney, creation of corporate entities  
131 or otherwise, to defeat the purpose of this chapter shall be null  
132 and void as against the public policy of this state.

### 1 SECTION 3. SEVERABILITY.

2 The provisions of this Act are severable and if any such  
3 provision or provisions shall be held invalid by any decision of  
4 any court of competent jurisdiction, such decision or decisions  
5 shall not impair or otherwise affect any other provision of this  
6 Act.

1 SECTION 4. This act shall apply to all contracts entered into  
2 on or after January 10, 1978.

1 SECTION 5. ESTABLISHING A VICTIMS OF VIOLENT  
2 CRIME COMPENSATION FUND.

3 Chapter ten of the General Laws, is hereby amended by  
4 inserting after section fifty-one the following new section: —

5 Section 52. There shall be established on the books of the  
6 commonwealth a separate fund to be known as the “Victims of  
7 Violent Crime Compensation Fund,” consisting of revenues  
8 received under the provisions of section eight of chapter two  
9 hundred and fifty-eight A, and all other credited or transferred  
10 thereto from any other fund or source pursuant to the law.

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

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



THE HISTORY OF THE UNITED STATES OF AMERICA

CHAPTER I. THE EARLY HISTORY OF THE UNITED STATES

The first part of the history of the United States is the history of the discovery and settlement of the continent.

The discovery of the continent is attributed to Christopher Columbus in 1492.

The settlement of the continent began with the arrival of the first European settlers in 1492.

The early history of the United States is marked by the discovery and settlement of the continent.

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