

By Mr. Wetherbee of Pepperell, petition of Bruce E. Wetherbee and another for legislation to provide for deposition testimony of witnesses in criminal cases in certain cases. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING FOR DEPOSITION TESTIMONY OF WITNESSES IN CRIMINAL CASES IN CERTAIN CASES.

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 278 of the General Laws is hereby amended by inserting
2 after section 2 the following section: —

3 *Section 2A.* If any criminal case is placed upon a list for trial and
4 is continued two or more times at the request or motion of the
5 defendant, any witness who was summoned to appear for said trial
6 and did appear may request the court to order that the testimony of
7 the witness be taken by deposition pursuant to rule 35 of the
8 Massachusetts rules of criminal procedure. Thereafter, at the time
9 of the trial of the case, a part or all of the depositions, so far as it is
10 otherwise admissible under the law of evidence, may be used as
11 substantive evidence if the witness is again summoned to appear
12 and notifies the court in writing that he does not wish to attend the
13 trial for the purpose of testifying. The court, in any case, shall have
14 the authority to order the witness to attend and testify.

