

By Mrs. Gray of Framingham, petition of Barbara E. Gray and other members of the General Court relative to penalties for the intimidation of victims and witnesses. Criminal Justice.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO PENALTIES FOR THE INTIMIDATION OF VICTIMS AND 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 SECTION 1. Chapter 268 of the General Laws is hereby
2 amended by striking out section 13B and inserting in place thereof
3 the following section: —

4 *Section 13B.* (1) For the purpose of this section the following
5 terms shall have the following meanings: —

6 “Criminal investigator” shall mean an individual or a group of
7 individuals lawfully authorized by a department or agency of the
8 commonwealth or any political subdivision thereof to conduct, or
9 engage in, an investigation of, or prosecution for, a violation of the
10 laws of the commonwealth in the course of his official duties.

11 “Witness” shall mean any natural person (1) having knowledge
12 of the existence or non-existence of facts relating to any crime or
13 (2) whose declaration under oath is received as evidence for any
14 purpose or (3) has reported any crime to any peace officer or
15 prosecutor or (4) who has been served with a subpoena issued
16 under the authority of any court of this state or of the United
17 States or (5) who would be believed by any reasonable person to be
18 an individual described in subsections 1-4 hereof.

19 “Victim” means any natural person against whom any crime as
20 defined under the laws of this state or of the United States is being,
21 or has been perpetrated or attempted in this state.

22 “Family member” shall mean spouse, child, sibling, parent or
23 legal guardian.

1 SECTION 2. Whoever, directly or indirectly willfully endeav-
2 ors by means of a gift, offer or promise of anything of value, or by
3 misrepresentation, intimidation, force or threats of force, to influ-
4 ence, impede, obstruct, delay, prevent, dissuade or otherwise inter-
5 fere with any witness, victim, juror, or member of his or her family
6 in any stage of a trial or other criminal proceeding or with any
7 person furnishing information to a criminal investigator relating
8 to a violation of a criminal statute of the commonwealth, and
9 whoever injures any person or member of his or her family or
10 damages his property on account of the giving of such information
11 to a criminal investigation or an account of testimony given at a
12 trial or other criminal proceeding shall be punished by imprison-
13 ment in the state prison for not more than five years, or in a jail or
14 house of correction for not more than two and a half years, or by a
15 fine of not more than five thousand dollars, or by both such
16 imprisonment and fine.

1 SECTION 3. Any person who attempts the commission of any
2 act described in section 2 above, is guilty of the offense attempted
3 without regard to the success or failure of such attempt. The fact
4 that no person was injured physically or in fact intimidated shall be
5 no defense against any prosecution under this chapter.

1 SECTION 4. Any court with jurisdiction over any criminal
2 matter may, in its discretion upon evidence which may include
3 hearsay on the declaration of the prosecutor that intimidation or
4 dissuading of any person who is a victim, witness, or juror has
5 occurred or is reasonably likely to occur, issue orders including but
6 not limited to the following: —

7 (a) an order that a defendant not violate any provisions of
8 section two.

9 (b) an order that a person before the court other than defendant
10 including but not limited to a subpoenaed witness or other person
11 entering the courtroom of said court shall not violate any provi-
12 sions of section two.

13 (c) an order that any person described in subsection (a) or (b) of
14 this section maintain a prescribed geographic distance from any
15 specified witness, juror or victim.

16 (d) an order that any person described in either (a) or (b) of

17 subsection (4) have no communication whatsoever with any speci-
18 fied witness, juror or victim except through an attorney under such
19 reasonable restriction as the court may impose.

1 SECTION 5. The General Laws are hereby amended by insert-
2 ing after chapter 258A the following new chapter: —

3 **CHAPTER 258B**
4 **RIGHTS OF VICTIMS**
5 **AND WITNESSES OF CRIME.**

6 The following words as used in this chapter shall have the
7 following meanings, unless the context requires otherwise: —

8 (1) "Crime" means an act committed in this state which, if
9 committed by a competent adult, would constitute a crime.

10 (2) "Department" means the department of justice.

11 (3) "Family member" means spouse, child, sibling, parent or
12 legal guardian.

13 (4) "Victim" means a person against whom a crime has been
14 committed.

15 (5) "Witness" means any person who has been or is expected to
16 be summoned to testify for the prosecution, whether of not any
17 action or proceeding has yet been commenced.

1 SECTION 6. Basic bill of rights for victims and witnesses.
2 Victims and witnesses of crimes have the following rights: —

3 (1) To be informed by local law enforcement agencies and the
4 district attorney of the final disposition of the case.

5 (2) To be notified that a court proceeding to which they have
6 been subpoenaed will not go on as scheduled, in order to save the
7 person the unnecessary trip to court.

8 (3) To receive protection from harm and threats of harm arising
9 out of their cooperation with law enforcement and prosecution
10 efforts, and to be provided with information as to the level of
11 protection available.

12 (4) To be informed of financial assistance and other social
13 services available as a result of being a witness or a victim of a
14 crime, including information on how to apply for the assistance
15 and service.

16 (5) To be informed of the procedure to be followed in order to
17 apply for and receive any witness fee to which they are entitled.

18 (6) To be provided, whenever possible a secure waiting area
19 during court proceedings that does not require them to be in close
20 proximity to defendants and families and friends of defendants.

21 (7) To have any stolen or other personal property expeditiously
22 returned by law enforcement agencies when no longer needed as
23 evidence. If feasible, all such property, except weapons, currency,
24 contraband, property subject to evidentiary analysis and property
25 the ownership of which is disputed, shall be returned to the person.

26 (8) To be provided with appropriate employer intercession serv-
27 ices to ensure that employers of victims and witnesses will cooper-
28 ate with the criminal justice process in order to minimize an
29 employee's loss of pay and other benefits resulting from court
30 appearances.

31 (9) To be entitled to a speedy disposition of the case in which
32 they are involved as a victim or witness in order to minimize the
33 length of time they must endure the stress of their responsibilities
34 in connection with the matter.

1 SECTION 7. Services for victims and witnesses. (1) Counties
2 are encouraged to provide victims and witnesses the following
3 services:

4 (a) Court appearance notification services, including cancella-
5 tion of appearances.

6 (b) Victim compensation and social services referrals, including
7 witness fee collection, case-by-case referrals and public informa-
8 tion.

9 (c) Escort and other transportation services related to the inves-
10 tigation or prosecution of the case, if necessary or advisable.

11 (d) Case progress notification services which may be combined
12 with services under paragraph (a).

13 (e) Employer intercession services.

14 (f) Expedited return of property services.

15 (g) Protection services.

16 (h) Family support services, including child and other depend-
17 ent care services.

18 (i) Waiting facilities.