

By Mr. Dempsey of Haverhill, petition of Brian S. Dempsey and William J. McManus II for legislation to require criminals to provide for restitution to persons suffering injuries inflicted by such criminals. Criminal Justice.

**The Commonwealth of Massachusetts**

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

AN ACT REQUIRING RESTITUTION BY CRIMINALS TO INJURED PERSONS.

*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 279 of the General Laws is hereby amended by  
2 inserting after section 5 the following section: —

3 Section 5A. A person convicted of any crime shall, except as  
4 otherwise provided by law, upon conviction, in addition to any  
5 other punishment, be ordered by the court to make restitution to  
6 any person injured by him to such an extent and in such sum as  
7 the court determines. The court shall, after conviction, conduct an  
8 evidentiary hearing to ascertain the extent of the damage, injury or  
9 loss suffered as a result of the defendant's crime. Restitution shall  
10 not be ordered to a party who the court determines to be aggrieved  
11 without that party's consent.

12 Restitution shall be imposed in addition to incarceration or fine,  
13 or both, and not in lieu thereof; provided, however, that the court  
14 shall consider the defendant's present and future ability to pay,  
15 including the ability to pay over a period of time. If the court  
16 finds that the defendant is not able to pay all of such restitution or  
17 that the payment of restitution will impose an undue financial  
18 burden on the defendant's family, the court may reduce the  
19 amount, time or method of payment of restitution but may not  
20 grant complete remission from payment of restitution.

21 If a defendant who is required to make restitution defaults in  
22 any payment of restitution or installment thereof, the court may

23 hold him in contempt unless said defendant has made a good faith  
24 effort to pay such restitution. If said defendant has made a good  
25 faith effort to pay such restitution, the court may modify the  
26 amount, fine or method of payment but may not grant complete  
27 remission from payment of restitution.