

By Ms. Walsh, a petition (accompanied by bill, Senate, No. 1070) of Marian Walsh for legislation relative to legal actions commenced in bad faith. The Judiciary.

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The Commonwealth of Massachusetts

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In the Year Two Thousand and Five.

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AN ACT RELATIVE TO LEGAL ACTIONS COMMENCED IN BAD FAITH.

*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 231 of the General Laws, as appearing in the 2000  
2 Official Edition, is hereby amended by inserting after section 6F  
3 the following section:—

4 6F½. No civil or criminal action, claim, pleading, demand or  
5 related document shall be initiated against, filed or served on a  
6 victim of a crime that involves the infliction or the threat of infliction  
7 of bodily injury by or on behalf of a person who has been  
8 charged with, convicted of, or against whom a finding of sufficient  
9 facts for conviction has been made, of such a crime unless  
10 the person first establishes to a court with jurisdiction over such  
11 matters that the action, claim, pleading, demand or related document  
12 is being advanced in good faith.

13 If the court finds that such action, claim, pleading, demand or  
14 related document is not being advanced in good faith the court  
15 shall dismiss or otherwise dispose of the same. If the person  
16 seeking to advance such matter is a committed offender as defined  
17 in section 1 of chapter 125, the court shall, in addition to dismissing  
18 or disposing of the same, order that the committed offender lose up to  
19 60 days of good conduct credit earned or to be earned pursuant to  
20 section 129C or 129D of chapter 127. If said person is not a committed  
21 offender, the court shall, in addition to dismissing or disposing of the  
22 same, award to the victim an amount representing the reasonable counsel  
23 fees and other costs and expenses incurred in defending against such  
24 matter. If the

25 victim was not represented by counsel, the court shall award an  
26 amount representing his reasonable costs, expenses and effort in  
27 defending against such matter. Any such action, claim, pleading,  
28 demand or other legal document initiated, filed or served without  
29 a finding by the court that the same is being advanced in good  
30 faith shall be dismissed or otherwise disposed of upon motion or  
31 sua sponte.

32 In determining if such action, claim, pleading or demand is  
33 being advanced in good faith, the court shall consider whether it is  
34 being presented for any improper purpose, such as to harass or to  
35 cause unnecessary delay or needless increase in the cost of litiga-  
36 tion.

37 For the purposes of this section, a victim is any person who has  
38 suffered or received a threat to bodily injury. Bodily injury  
39 means substantial impairment of the physical condition including  
40 any burn, fracture of any bone, subdural hematoma, injury to any  
41 internal organ, any injury which occurs as the result of repeated  
42 harm to any bodily function or organ including human skin or any  
43 physical condition which substantially imperils a person's health  
44 or welfare.

45 No court shall consider a finding made under this section in any  
46 subsequent civil or criminal action, provided that a court may con-  
47 sider the same in any motion filed under section 6F.