

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and other members of the House for legislation to authorize the Division of Victim Compensation and Assistance to monitor profits from criminal activities of incarcerated individuals. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT RELATIVE TO PROFITS FROM 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. The General Laws, as appearing in the 2000
2 Official Edition, are hereby amended by inserting after chapter
3 two hundred fifty-eight C the following new chapter as chapter
4 two hundred fifty-eight D:—

5 **CHAPTER 258D.**

6 Section 1. (a) Definitions. The following words as used in this
7 section shall have the following meanings, unless the context oth-
8 erwise requires:

9 “Contracting party”, any person, firm, corporation, partnership,
10 association or other private legal entity which contracts for, pays,
11 or agrees to pay a defendant consideration which it knows or rea-
12 sonably should know may constitute proceeds from a crime.

13 “Conviction”, a finding or verdict of guilty or of not guilty by
14 reason of insanity, a plea of guilty or a finding of sufficient facts
15 to warrant a finding of guilty whether or not final judgment or
16 sentence is imposed, or an adjudication of delinquency or of
17 youthful offender status as defined in section fifty-two of chapter
18 one hundred and nineteen.

19 “Crime”, any violation of Massachusetts law that is punishable
20 by imprisonment in state prison and any federal offense

21 committed in the commonwealth that is punishable by death or
22 imprisonment for a term of more than one year. Crime shall also
23 include any offense committed by a juvenile which would be a
24 crime if the juvenile were an adult.

25 “Defendant”, a person who has been charged with or convicted
26 of a crime, or has voluntarily admitted the commission of a crime.

27 “Division”, the division of victim compensation and assistance
28 within the department of the attorney general.

29 “Proceeds of the crime”, any assets, material objects, monies,
30 and property obtained through the use of unique knowledge or
31 notoriety acquired by means and in consequence of the commis-
32 sion of a crime from whatever source received by or owing to a
33 defendant or his representative, whether earned, accrued, or paid
34 before or after the disposition of criminal charges against the
35 defendant.

36 “Victim”, any natural person who suffers direct or threatened
37 physical, emotional, or financial harm as the result of the commis-
38 sion of a crime, or the estate, legal guardian, and other family
39 members of such person if the person is a minor, incompetent or
40 deceased.

41 (b) Any person, firm, corporation, partnership, association or
42 other legal entity which contracts for, pays or agrees to pay a
43 defendant or his representative consideration which it knows or
44 reasonably should know may constitute proceeds of a crime shall,
45 within thirty days of the agreement, submit to the division a copy
46 of its contract or a summary of the terms of any oral agreement.

47 (c) Until such time as the division makes its determinations
48 under subsection (g), the contracting party shall file a bond, exe-
49 cuted by the contracting party and by a surety company authorized
50 to do business within the commonwealth, with the division equal
51 in amount to any proceeds of the crime which by the terms of the
52 contract would otherwise be owing to a defendant or his represen-
53 tative. Said bond shall be payable to the commonwealth, for the
54 benefit of any victim aggrieved by the activity of the defendant or
55 contracting party.

56 (d) If the provisions of subsections (b) or (c) are violated, the
57 division may petition the superior court for an order of enforce-
58 ment. Such action shall be brought in the county in which the con-
59 tracting party resides or has his principal place of business, or in
60 Suffolk County if the contracting party does not reside or have a

61 principal place of business in the commonwealth. Upon a finding
62 that a contracting party has violated subsections (b) or (c) the
63 court shall, in addition to any other relief, impose on the con-
64 tracting party a civil penalty of the value of the contract or agree-
65 ment. If the court finds such violation to have been knowing or
66 willful, it shall impose a civil penalty up to three, but not less than
67 two, times the value of the contract or agreement. To the extent
68 monies or other consideration received by the division as a result
69 of such order exceed the value of the contract or agreement, they
70 shall be deposited into the victim compensation fund maintained
71 by the treasurer in accordance with section 4(c). Any remaining
72 monies or consideration shall be held by the division pending the
73 determinations required by subsection (g).

74 (e) The division, upon receipt of a contract or other agreement
75 to pay a defendant, shall take reasonable steps to notify all known
76 victims of the crime about the existence of a contract or agree-
77 ment. Notifications shall be made by certified mail to the victim's
78 last known address. The division shall also provide legal notice in
79 a newspaper of general circulation in the county in which the
80 crime was committed to publicize the existence of proceeds
81 related to the crime. Such notice shall be made by the division
82 once every six months for one year from the date of receipt of the
83 contract or agreement. The division may provide for such addi-
84 tional notice as it deems necessary. Failure to notify victim shall
85 not result in liability beyond the amount of any consideration in
86 escrow at the time any judgment arising out of such liability is
87 executed upon.

88 (f) Notwithstanding any other provision of the General Laws
89 with respect to the timely bringing of an action, any victim shall
90 have the right to bring a civil action to recover money damages
91 from a defendant or his legal representative within three years of
92 the last mandatory published public notice provided for in subsec-
93 tion (e).

94 (g) Within thirty days from the receipt of a contract or agree-
95 ment, or upon its own initiative if no contract or agreement is sub-
96 mitted, the division shall determine whether the terms of the
97 contract or agreement include proceeds as defined in subsection
98 (a) and, if so, whether such proceeds arise from activity that is
99 substantially related to a crime. An activity is substantially related
100 to a crime if it principally derives from the unique knowledge or

101 notoriety acquired by means and in consequence of the commis-
102 sion of a crime for which the defendant has been charged or con-
103 victed, or which the defendant has voluntarily admitted. Activity
104 that is tangentially related to a crime, or that contains only a
105 passing reference to a crime, shall not be determined to be sub-
106 stantially related.

107 (h) In order to make the determinations required by subsec-
108 tion (g) the division shall be authorized to issue written civil
109 investigative demands which may be served by certified mail, and
110 which shall be returned within fifteen days from the date of
111 service. Whenever a person fails to comply with a civil investiga-
112 tive demand served on him pursuant to this section, the division
113 may petition the superior court for an order of enforcement. Such
114 action shall be brought in the county in which the party resides or
115 has his principal place of business, or in Suffolk County if the
116 party does not reside or have a principal place of business in the
117 commonwealth. Failure to comply with an order entered under
118 this section shall be punished as a contempt of court. All informa-
119 tion collected by the division pursuant to this section shall be kept
120 in accordance with the provisions of chapters four, sixty-six, and
121 sixty-six A.

122 (i) Upon making the determinations required by subsection (g),
123 the division may continue to hold the bond filed in accordance
124 with subsection (c), or may require the contracting party to file a
125 new bond equal to the amount determined by the division to con-
126 stitute proceeds arising from activity that is substantially related
127 to a crime. The bond held by the division shall be used to satisfy,
128 in part or in full, any civil judgment obtained by a victim against
129 the defendant arising from the crime.

130 (j) Within fifteen days of the determination required by subsec-
131 tion (g), the division shall notify the contracting party of its deter-
132 minations by certified mail.

133 (k) Within fifteen days of the date of mailing of the notice of
134 the division's determination, a contracting party aggrieved by the
135 division's determination may appeal to the attorney general, by
136 serving on the attorney general a written notice to that effect.
137 Thereupon the attorney general shall immediately cause the divi-
138 sion or his designee to hold a public hearing on the division's
139 action appealed from. The division shall notify the contracting
140 party by certified mail of the determination upon appeal within ten

141 days of the closing of the hearing. Such notice shall include infor-
142 mation regarding the contracting party's right to a petition for
143 judicial review of the determination of the division.

144 (l) Within thirty days of the date of mailing of the notice of the
145 division's determination, the contracting party may file a com-
146 plaint for judicial review in the superior court in the county in
147 which the contracting party resides or has his principal place of
148 business, or in Suffolk County if the contracting party does not
149 reside or have a principal place of business in the commonwealth.
150 Proceedings upon any such complaint shall be in accordance with
151 chapter thirty A. If no petition is filed within the time specified,
152 the decision of the division shall be final.

153 (m) The bond required in subsections (c) and (i) shall not be
154 used to satisfy any civil judgment for a victim until the defendant
155 has been fully and finally convicted of the crime for which he has
156 been charged or until the defendant has voluntarily admitted the
157 commission of the crime.

158 (n) The division shall return to the contracting party the bond
159 required in subsections (c) and (i) if the defendant is fully and
160 finally prosecuted and is not convicted of the crime, or has not
161 voluntarily admitted the commission of the crime.

162 (o) After all civil claims instituted by victims against the defen-
163 dant have been satisfied, or if no claims have been filed after three
164 years after the last mandatory published public notice provided for
165 in subsection (e), one half of the value of the bond required in
166 subsections (c) and (i) shall be returned to the contracting party.
167 The remaining portion of the bond shall be deposited into the
168 victim compensation fund maintained by the department of the
169 attorney general in accordance with section four C of chapter two
170 hundred fifty-eight C.

171 (p) The division, acting on behalf of any victim, shall have the
172 right to apply for any and all provisional remedies, available
173 under civil practice law and rules, including, but not limited to,
174 attachment, injunction, receivership and notice of pendency.

175 (q) Any action taken by a defendant, or his representative,
176 whether by way of execution of a power of attorney, creation of
177 corporate entities or otherwise, to defeat the purpose of this
178 section shall be null and void.

1 SECTION 2. Section 2A of chapter two hundred sixty of the
2 General Laws is hereby amended by inserting after the first sen-
3 tence the following sentence:— Actions for torts against a crim-
4 inal defendant by the victim as defined by section 1 of chapter two
5 hundred fifty-eight D shall be tolled during any period of incar-
6 ceration, parole or probation of the defendant for the crime com-
7 mitted against the victim.

The following table shows the number of students enrolled in public schools in the United States, by State, for the year 1900.

The Enrollment of Pupils in Public Schools in the United States, 1900

Table 1. U. S. Department of the Interior, Bureau of Education, 1900.

NOTE: This table is based on the report of the Commissioner of Education for the year 1900, and is subject to the same qualifications as that report.

There is a total of 12,000,000 pupils enrolled in public schools in the United States, of whom 10,000,000 are in the primary grades, 1,000,000 in the intermediate grades, and 1,000,000 in the high schools.

The following table shows the number of pupils in each grade in the public schools in the United States, for the year 1900.

