

By Mr. Barrett of Reading, petition of Michael J. Barrett for legislation to establish the rights of victims and witnesses of crimes. The Judiciary.

## **The Commonwealth of Massachusetts**

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

### AN ACT ESTABLISHING THE RIGHTS OF VICTIMS AND WITNESSES OF 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 The General Laws are hereby amended by inserting after chapter  
2 258A the following new chapter: —

#### **CHAPTER 258B**

#### **RIGHTS OF VICTIMS AND WITNESSES OF CRIME.**

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5 *Section 1.* The following words as used in this chapter shall  
6 have the following meanings, unless the context requires other-  
7 wise: —

8 “Board”, the Victim/Witness Assistance Board as established in  
9 section 8 of this chapter.

10 “Crime”, an act committed in the commonwealth which, if  
11 committed by a competent adult, would constitute a crime.

12 “Family member”, a spouse, child, sibling, parent, or legal  
13 guardian.

14 “Victim”, a person against whom a crime has been committed.

15 “Witness”, any person who has been or is expected to be sum-  
16 moned to testify for the prosecution or who by reason of having  
17 relevant information is subject to call or likely to be called as a  
18 witness for the prosecution, whether or not any action or proceed-  
19 ing has yet been commenced.

20 *Section 2.* A victim has the rights and is eligible for the services  
21 provided under this chapter only if the victim has reported the

22 crime to law enforcement authorities within five days of its occur-  
23 rence or discovery, unless he or she has a reasonable excuse not to  
24 do so.

25 *Section 3.* Victims and witnesses of crimes shall have the follow-  
26 ing rights: —

27 (a) To be informed by local law enforcement agencies and the  
28 district attorney of the final disposition of the case. if the crime  
29 charged is a felony, the victim shall be notified whenever the  
30 defendant or perpetrator is released from custody.

31 (b) To be notified that a court proceeding to which they have  
32 been subpoenaed will not go on as scheduled.

33 (c) To receive protection from harm and threats of harm arising  
34 out of their cooperation with law enforcement and prosecution  
35 efforts, and to be provided with information as to the level of  
36 protection available.

37 (d) to be informed of financial assistance and other social serv-  
38 ices available as a result of being a witness or a victim of a crime,  
39 including information on how to apply for the assistance and  
40 services.

41 (e) To be informed of the procedure to follow in order to apply  
42 for and receive any witness fee to which they are entitled.

43 (f) To be provided, whenever possible, with a waiting area dur-  
44 ing court proceedings that does not require them to be in close  
45 proximity to defendants and families and friends of defendants.

46 (g) To have any stolen or other personal property expeditiously  
47 returned by law enforcement agencies when no longer needed as  
48 evidence. If feasible, all such property, except weapons, currency,  
49 contraband, property subject to evidentiary use and analysis, and  
50 property the ownership of which is disputed, shall be returned to  
51 the person within ten days of being taken.

52 (h) To be provided with appropriate employer intercession serv-  
53 ices to ensure that employers of victims and witnesses cooperate  
54 with the criminal justice process in order to minimize an employ-  
55 ee's loss of pay and other benefits resulting from court appear-  
56 ances.

57 (i) To be entitled to a speedy disposition of the case in which  
58 they are involved as a victim or witness.

59 (j) To have the family members of all homicide victims afforded  
60 all of the rights listed above and analogous services whether or not  
61 they are witness in any criminal proceedings.

62 *Section 4.* Courts, subject to appropriation, shall provide vic-  
63 tims and witnesses with the following services: —

64 (a) Court appearance and notification services, including cancel-  
65 lation of appearances.

66 (b) Case progress notification services.

67 (c) Expedited return of property services.

68 (d) Protection services.

69 (e) Waiting facilities.

70 *Section 5.* Each court in the trial court is responsible for the  
71 provisions of services enumerated in section 4 of this chapter. Each  
72 court shall submit a program plan to the office of the chief adminis-  
73 trative justice of the trial court for its approval not later than six  
74 months after the effective date of this act and annually thereafter.  
75 In August of each year each court shall submit a report to the office  
76 of the chief administrative justice of the trial court on the operation  
77 of the plan. The chief administrative justice of the trial court shall  
78 review and approve the implementation and operation of pro-  
79 grams and the annual reports under this section. He shall promul-  
80 gate rules and regulations for implementing and administering  
81 court programs under this section.

82 *Section 6.* The district attorney, local law enforcement agen-  
83 cies, local social service agencies, and the courts shall cooperate  
84 with each other to ensure that victims and witnesses of crimes  
85 receive the rights and services to which they are entitled under this  
86 chapter.

87 *Section 7.* A cost of twenty dollars shall be imposed against any  
88 person convicted of a felony and ten dollars imposed against any  
89 person convicted of a misdemeanor. When multiple offenses for an  
90 incident are charged, the total assessment shall not exceed twenty  
91 dollars.

92 All assessments shall be collected by the clerk of each court upon  
93 a conviction and shall be transmitted monthly to the treasurer. The  
94 assessment from any conviction which is subsequently overturned  
95 on appeal shall be refunded by the clerk of the court to the person

96 whose conviction is overturned. Said clerk shall deduct such re-  
97 funds from the assessments transmitted to the treasurer.

98 There is hereby created a Victim/ Witness Assistance Fund to be  
99 established and set up on the books of the commonwealth in the  
100 state treasury. Any cost assessment imposed pursuant to this sec-  
101 tion shall be deposited in said fund, the proceeds of which shall be  
102 available for appropriation by the board to provide funds to local  
103 comprehensive programs which aid victims and witnesses.

104 Funds assessed pursuant to this section shall be made available  
105 to the board without further appropriation to be used to establish  
106 Victim/ Witness Assistance Centers which shall provide services to  
107 each court in the trial court. The board shall receive applications  
108 from any public or private nonprofit agency for selection and  
109 funding as such centers. The board shall consider the following  
110 factors together with other circumstances it deems appropriate in  
111 selecting applicants to receive funds and to be designated as Vic-  
112 tim/ Witness Assistance Centers: —

113 (a) The stated goals of the applicants.

114 (b) The number of persons to be served by the program.

115 (c) The needs of the community.

116 (d) Evidence of community support.

117 (e) The organizational structure of the agency which will oper-  
118 ate the center and provide the services to victims and witnesses of  
119 crime.

120 (f) The degree to which volunteer assistance in the center is to be  
121 employed.

122 Each application shall describe the following items: —

123 (a) The level of services to victims and witnesses which the  
124 agency intends to provide.

125 (b) The personnel responsible for related administrative pro-  
126 grams and individual services.

127 (c) Proposed staffing requirements for the program.

128 (d) Proposed education, training, and experience requirements  
129 for program staff.

130 (e) The agency's proposed budget for implementing the pro-  
131 gram.

132 Upon evaluation of all applicants but not later than one year  
133 from the effective date of this act, the board shall select those which

134 it deems qualified pursuant to this section to receive funding.

135 The centers shall provide services which shall include but not be  
136 limited to the following: —

137 (a) Victim compensation and social service referrals, including  
138 witness fee collection, case-by-case referral, and public informa-  
139 tion.

140 (b) Escort and transportation services related to the investiga-  
141 tion or prosecution of a case if necessary or advisable.

142 (c) Employer intercessions services.

143 (d) Family support services, including child and other depend-  
144 ent care services.

145 (e) Reception and guidance at the courthouse, including expla-  
146 nation of unfamiliar procedures and bilingual information.

147 (f) Notification of friends, relatives, and employer of victim if  
148 requested.

149 (g) Provision of follow-support services to victims of violent  
150 crimes and their families to ensure a continuation of necessary  
151 assistance through community resources.

152 (h) Provision to elderly victims of crimes of services appropriate  
153 to their special needs.

154 (i) Provision of liaison and referral services to special counsel-  
155 ing facilities and community service agencies for victims.

156 The centers shall, in addition, work to: —

157 (a) Sensitize law enforcement authorities to the needs of victims  
158 of crimes and reinforce a concerned approach to these victims.

159 (b) Ensure that victims are provided services enumerated in  
160 section 4 of this chapter.

161 (c) Decrease the incidence of unreported crimes.

162 Upon establishment of a center, the board shall conduct regular  
163 appraisals of the quality and level of services rendered and shall use  
164 such appraisals in considering the center for continued funding.

165 *Section 8.* There is hereby established a Victim/Witness Assist-  
166 ance Board, to consist of nine members. Two of such members shall  
167 be appointed by the governor, two shall be appointed by the  
168 district attorney's association, two shall be appointed by the  
169 attorney-general, one shall be a member of the senate to be  
170 appointed by the president of the senate, and one shall be a member  
171 of the house to be appointed by the speaker of the house.

172 The board shall have the following powers and duties: —

173 (a) To review applicants for funding for Victim/ Witness Assist-  
174 ance Centers established by section 7 of this chapter.

175 (b) To provide funds to such centers as it deems appropriate  
176 pursuant to section 7 of this chapter, within available resources.

177 (c) To evaluate the performance of the centers regarding the  
178 quality and level of services provided.

179 Any administrative costs related to the operation of said fund  
180 shall be paid for from the fund. The board may also apply for and  
181 receive monies for the fund from any federal or private source.

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