

SENATE. No. 2122

The Commonwealth of Massachusetts

SENATE, September 25, 2001.

The committee on Criminal Justice, to whom was referred the recommitment petition (accompanied by bill, Senate, No. 174) of Thomas F. Reilly, Attorney General, Cheryl A. Jacques, Harriett L. Stanley and other members of the General Court for legislation to establish the crime of communicating a terroristic threat, report the accompanying bill (Senate, No. 2122).

For the committee,

CYNTHIA STONE CREEM.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT ESTABLISHING THE CRIME OF COMMUNICATING A TERRORISTIC THREAT.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is forthwith to deter and punish the com-
3 munication of terroristic threats, therefore, it is hereby declared to
4 be an emergency law, necessary for the immediate preservation of
5 the public safety.

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 269 of the General Laws, as appearing in the 2000
2 Official Edition, is hereby amended by inserting the following
3 section:—

4 Section 20. (a) For the purposes of this section,

5 “Hijack”, to commandeer or to take control without authority.

6 “School”, shall include any public or private preschool, head-
7 start facility, elementary, vocational or secondary school, college
8 or university.

9 “Serious bodily injury”, bodily injury which results in a perma-
10 nent disfigurement, protracted loss or impairment of a bodily
11 function, limb or organ, or substantial risk of death.

12 (b) Whoever willfully communicates or causes to be communi-
13 cated, either directly or indirectly, orally, in writing, by mail, by
14 use of a telephonic or telecommunication device including, but
15 not limited to, electronic mail, internet communications and fac-
16 simile communications, through an electronic communication
17 device or by any other means, a threat

18 (1) that a firearm, rifle, shotgun, machine gun or assault
19 weapon, as defined in section 121 chapter 140 of the General
20 Laws, an explosive or incendiary device, a dangerous chemical or
21 biological agent, a poison, a harmful radioactive substance, or any
22 other device, substance or item capable of causing death, serious

23 bodily injury or property damage, will be used at a place or loca-
24 tion, or is present or will be present at a place or location, whether
25 or not the same is in fact used or present; or

26 (2) to hijack an aircraft, ship or common carrier; thereby
27 causing either the evacuation or serious disruption of a school,
28 school related event, school transportation, dwelling, building,
29 place of assembly or facility of public transport, or serious public
30 inconvenience or alarm, shall be guilty of communicating a ter-
31 roristic threat and shall be punished by imprisonment in the state
32 prison for not less than 3 years nor more than 20 years or impris-
33 onment the house of correction for not less than 6 months nor
34 more than 2½ years, or by a fine of not less than \$1,000 nor more
35 than \$50,000, or by both such fine and imprisonment.

36 (c) The court shall, after conviction, conduct a hearing to
37 ascertain the extent of costs incurred, damages and financial loss
38 suffered by local, county or state public safety agencies and the
39 amount of property damage caused as a result of the defendant's
40 crime. A person found guilty of violating this section shall, in all
41 cases, upon conviction, in addition to any other punishment, be
42 ordered to make restitution to the local, county or state govern-
43 ment for any costs incurred, damages and financial loss sustained
44 as a result of the commission of the crime. Restitution shall be
45 imposed in addition to incarceration or fine, and not in lieu
46 thereof; provided, however, the court shall consider the defen-
47 dant's present and future ability to pay in its determinations
48 regarding a fine. In determining the amount, time and method of
49 payment of restitution, the court shall consider the financial
50 resources of the defendant and the burden restitution will impose
51 on the defendant.

