

SENATE No. 945

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to gang violence and witness intimidation.

PETITION OF:

NAME:

James E. Timilty

DISTRICT/ADDRESS:

Bristol and Norfolk

SENATE No. 945

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 945) of James E. Timilty for legislation relative to gang violence and witness intimidation. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 835 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to gang violence and witness intimidation.

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 are hereby amended by inserting after chapter 42 the
2 following new chapter:-

3 CHAPTER 42A

4 MUNICIPAL JUDICIAL SAFTY ZONES

5 SECTION 1. A municipality, after consultation with the Trial Court and the local District
6 Attorney, may designate an area within a municipality where a court is located or court business
7 is conducted as a municipal judicial safety zone, the boundaries of which should be specifically
8 described by streets and landmarks. The zone should be outlined on an official municipal map
9 of the area and published in municipal notices, bulletins and official records as well as local
10 publications and media.

11 SECTION 2. A civil action may be brought to enjoin a specific gang activity within a
12 municipal judicial safety zone by a gang, a gang member or any person who knowingly acts in
13 the capacity of an agent for or accessory to a gang or is accountable for or voluntarily associates
14 with or engages in the following gang related activity;

15 i. the intimidation of witnesses and victims or their relatives;

16 ii..the unlawful possession of a pistol, revolver, or other firearm capable of being
17 concealed upon the person;

18 iii. the illegal sale, delivery, or transfer of a firearm;

19 iv. the sale, possession for sale, transportation, manufacture, offer for sale of
20 controlled substances, or offer to manufacture controlled substances;

21 v. discharging or permitting the discharge of a firearm from a motor vehicle;

22 vi. threats to commit crimes resulting in death or great bodily injury.

23 SECTION 3. Proceedings under this chapter shall be filed, heard and determined in the
24 superior court department of the trial court or the Boston municipal court department or
25 respective divisions of the district court department of the trial court having venue over the
26 location of the municipal safety zone.

27 Said action may seek, and a court may order, any such relief that may be necessary to
28 abate and enjoin the intimidation or threatening of witnesses or victims or other individuals
29 participating in matters within the municipal judicial safety zone.

30 The court may order monetary damages and the forfeiture of property received as a result
31 of illegal gang activity. No filing fee shall be charged for the filing of any complaint under the
32 provisions of this chapter. Any relief granted by the court shall be for a fixed period of time of
33 not less than 2 years and not more than 3 years.

34 Upon motion by either party, the court may modify its order at any subsequent time. An
35 action filed under this chapter shall not preclude any other civil or criminal actions.

36 Each order issued by a court shall contain the following statement:

37 "VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE"

38 Notwithstanding any law, rule or regulation to the contrary, any violation of a court order
39 under this chapter shall be punishable by not more than 1 year in a jail or house of correction.

40 A civil action may be brought against a criminal street gang or against any member,
41 associate, leader, officer, agent, or organizer of a criminal street gang who intimidates or
42 threatens witnesses or victims or authorizes, causes, orders, ratifies, requests or suggests the
43 intimidation or threatening of witnesses. An action brought under this section shall also name as
44 defendants the criminal street gang and any gang members that participated in the pattern of
45 criminal gang activity. An action brought under this section may name, as a class of defendants,
46 all unknown criminal gang members.

47 A civil action may be brought under this section regardless of whether there has been a
48 criminal action related to or in connection with the threatening or intimidation of witnesses, or
49 any injury or damage resulting there from and regardless of the outcome of any such criminal
50 action.

51 Upon consideration of a complaint for injunctive relief or a cause of action for damages,
52 or both, the Court may, in its discretion, conduct an evidentiary hearing and allow either party to
53 call witnesses and present evidence as deemed necessary by the Court.

54 If any individual, a street gang, or any member of such gang, is found in violation of any
55 order of the Court issued under this chapter, and it becomes necessary for the Commonwealth to
56 bring a contempt action seeking enforcement of said order, the Commonwealth shall be entitled
57 to, and the defendant or defendants, jointly or severally, shall be liable for, any reasonable
58 attorney's fees and costs of prosecuting the contempt action.

59 SECTION 4. A summons and complaint may be served individually upon any member,
60 associate, agent, officer, leader, or organizer of a criminal street gang by service as provided for
61 in Rule 4 of the Massachusetts Rules of Civil Procedure. Any judgment, order or decree
62 rendered by the court after service under this section shall constitute a binding adjudication
63 against the entire criminal street gang.

64 SECTION 5. Upon the filing of a complaint under this chapter, the court may enter such
65 temporary orders as it deems necessary to protect the community within the safety zone,
66 including relief as provided in section 3. If the plaintiff demonstrates a substantial likelihood of
67 immediate danger, the court may enter such temporary relief orders without notice as it deems
68 necessary to protect the individual and public and shall immediately thereafter notify the
69 defendant that the temporary orders have been issued. Notice shall be made by the appropriate
70 law enforcement agency. The court shall give the defendant an opportunity to be heard on the
71 question of continuing the temporary order and of granting other relief as requested by the
72 plaintiff no later than 10 court business days after such orders are entered.

73 If the defendant does not appear at such subsequent hearing, the temporary orders shall
74 continue in the effect without further order of the court.

75 SECTION 6. Initial public notice of any judicial safety zone shall be given at least 30
76 days prior to any civil action being commenced under this chapter. Said notice shall be given
77 wide and diverse publication throughout the area of the municipal safety zone and in accordance
78 with generally accepted municipal notice procedures as well as those methods enumerated in
79 section 1 herein.