SENATE DOCKET, NO. 1155 FILED ON: 1/18/2013

SENATE . . . . . No. 835

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 passage of the accompanying:

An Act relative to municipal safety zones.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	*Bristol and Norfolk*
Daniel B. Winslow	*9th Norfolk*
Bruce E. Tarr	*First Essex and Middlesex*

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SENATE . . . . . No. 835

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 835) of James E. Timilty, Daniel B. Winslow and Bruce E. Tarr for legislation relative to municipal safety zones. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to municipal safety zones.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 211B of the General Laws is hereby amended by adding the following new section:-

Section 22. Municipal Safety Zones

(a) A municipality, after consultation with the Trial Court and local District Attorney, may designate an area within a municipality where a courthouse is located as a municipal safety zone, the boundaries of which should be specifically described by streets and landmarks. The zone should be outlined on an official municipal map of the area and published in municipal notices, bulletins and official records as well as local publications and media.

(b) A civil action may be brought to enjoin a specific gang activity within a municipal safety zone by a criminal gang, a criminal gang member or any person who knowingly acts in the capacity of an agent for or accessory to a criminal gang or is accountable for or voluntarily associates with or engages in the following criminal gang related activity (1) the intimidation of witnesses and victims or their relatives (2) the unlawful possession of a pistol, revolver, or other firearm capable of being concealed upon the person (3) the illegal sale, delivery, or transfer of a firearm (4) the sale, possession for sale, transportation, manufacture, offer for sale of

controlled substances, or offer to manufacture controlled substances (5) discharging or permitting the discharge of a firearm from a motor vehicle (6) threats to commit crimes resulting in death or great bodily injury.

(c) Proceedings under this chapter shall be filed, heard and determined in the superior court department of the trial court or the Boston municipal court department or respective divisions of the district court department of the trial court having venue over the location of the municipal safety zone. Said action may seek, and a court may order, any such relief that may be necessary to abate and enjoin the intimidation or threatening of witnesses or victims or other

24 individuals participating in matters at the courthouse within the municipal safety zone and other
25 activity in subsection (b). The court may order monetary damages and the forfeiture of property
26 received as it deems necessary. No filing fee shall be charged for the filing of any complaint
27 under the provisions of this chapter. Any relief granted by the court shall be for a fixed period
28 of time of not less than1 year and not more than 3 years. Upon motion by either party, the court
29 may modify its order at any subsequent time. An action filed under this chapter shall not
30 preclude any other civil or criminal actions. Each order issued by a court shall contain the
31 following statement: "VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE".

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

35 A civil action for damages may be brought against a criminal gang or against any
36 member, associate, leader, officer, agent, or organizer of a criminal gang who intimidates or
37 threatens witnesses or victims or authorizes, causes, orders, ratifies, requests or suggests the
38 intimidation or threatening of witnesses. An action brought under this section shall also name as
39 defendants the criminal gang and any gang members that participated in the pattern of criminal
40 gang activity. An action brought under this section may name, as a class of defendants, all
41 unknown criminal gang members. A civil action may be brought under this section regardless of
42 whether there has been a criminal action related to or in connection with the threatening or
43 intimidation of witnesses, or any injury or damage resulting there from and regardless of the
44 outcome of any such criminal action. Upon consideration of a complaint for injunctive relief or
45 a cause of action for damages, or both, the Court may, in its discretion, conduct an evidentiary
46 hearing and allow either party to call witnesses and present evidence as deemed necessary by the
47 Court.

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

53 (e) A summons and complaint may be served individually upon any member, associate,
54 agent, officer, leader, or organizer of a criminal gang by service as provided for in Rule 4 of the
55 Massachusetts Rules of Civil Procedure. Any judgment, order or decree rendered by the court
56 after service under this section shall constitute a binding adjudication against the entire criminal
57 gang.

58 (f) Upon the filing of a complaint under this chapter, the court may enter such temporary
59 orders as it deems necessary to protect the community within the safety zone, including relief as
60 provided in section (c). If the plaintiff demonstrates a substantial likelihood of immediate

61 danger, the court may enter such temporary relief orders without notice as it deems necessary to
62 protect the individual and public and shall immediately thereafter notify the defendant that the
63 temporary orders have been issued. Notice shall be made by the appropriate law enforcement
64 agency. The court shall give the defendant an opportunity to be heard on the question of
65 continuing the temporary order and of granting other relief as requested by the plaintiff no later
66 than 10 court business days after such orders are entered. If the defendant does not appear at
67 such subsequent hearing, the temporary orders shall continue in the effect without further order
68 of the court.

69 (g) Initial public notice of any municipal safety zone shall be given at least 30 days prior
70 to any civil action being commenced under this chapter. Said notice shall be given wide and
71 diverse publication throughout the area of the municipal safety zone and in accordance with
72 generally accepted municipal notice procedures as well as those methods enumerated in
73 subsection (a).