

SENATE No. 1852

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to legal actions commenced in badfaith..

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. Chapter 231 of the General Laws, as appearing in the 2004 Official Edition,
2 is hereby amended by inserting after section 6F the following section: -

3 6F ½. No civil or criminal action, claim, pleading, demand or related document shall be
4 initiated against, filed or served on a victim of a crime that involves the infliction or the threat of
5 infliction of bodily injury by or on behalf of a person who has been charged with, convicted of,
6 or against whom a finding of sufficient facts for conviction has been made, of such a crime
7 unless the person first establishes to a court with jurisdiction over such matters that the action,
8 claim, pleading, demand or related document is being advanced in good faith.

9 If the court finds that such action, claim, pleading, demand or related document is not
10 being advanced in good faith the court shall dismiss or otherwise dispose of the same. If the
11 person seeking to advance such matter is a committed offender as defined in section 1 of chapter
12 125, the court shall, in addition to dismissing or disposing of the same, order that the committed
13 offender lose up to 60 days of good conduct credit earned or to be earned pursuant to section
14 129C or 129D of chapter 127. If said person is not a committed offender, the court shall, in

15 addition to dismissing or disposing of the same, award to the victim an amount representing the
16 reasonable counsel fees and other costs and expenses incurred in defending against such matter.
17 If the victim was not represented by counsel, the court shall award an amount representing his
18 reasonable costs, expenses and effort in defending against such matter. Any such action, claim,
19 pleading, demand or other legal document initiated, filed or served without a finding by the court
20 that the same is being advanced in good faith shall be dismissed or otherwise disposed of upon
21 motion or sua sponte.

22 In determining if such action, claim, pleading or demand is being advanced in good faith,
23 the court shall consider whether it is being presented for any improper purpose, such as to harass
24 or to cause unnecessary delay or needless increase in the cost of litigation.

25 For the purposes of this section, a victim is any person who has suffered or received a
26 threat to bodily injury. Bodily injury means substantial impairment of the physical condition
27 including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any
28 injury which occurs as the result of repeated harm to any bodily function or organ including
29 human skin or any physical condition which substantially imperils a person's health or welfare.

30 No court shall consider a finding made under this section in any subsequent civil or
31 criminal action, provided that a court may consider the same in any motion filed under section
32 6F.