

# SENATE . . . . . No.

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## The Commonwealth of Massachusetts

PRESENTED BY:

***Richard T. Moore, (BY REQUEST)***

*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 enhancing whistleblower protections.

PETITION OF:

NAME:

*Michael Crenshaw*

DISTRICT/ADDRESS:

*19 B Providence Street Millville, MA 01529*

# SENATE . . . . . No.

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By Mr. Richard T. Moore (by request), a petition (subject to Joint Rule 12) of Michael Crenshaw for legislation to enhance whistleblower protections. Public Service.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
\_\_\_\_\_

An Act enhancing whistleblower protections.

*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. Subsection (a) of section 185 of chapter 149 of the General Laws, as  
2 appearing in the 2010 Official Edition, is hereby amended by adding the following definitions:-

3           “Public Safety Employee”, any individual employed in the commonwealth as a municipal  
4 police officer, state police officer, environmental police officer, college or university or campus  
5 police officer, firefighter, EMT, correction officer, sheriff, deputy sheriff, emergency  
6 communication dispatcher, probation officer, parole officer or appointed and sworn special  
7 police or peace officer.

8           “Witness or Spokesperson or Union Official”, any individual that is chosen or elected or  
9 willing to speak on behalf of an individual employee, group or unit of employees that provides,  
10 discloses, or threatens to disclose to a supervisor, municipal official, or to a public body an  
11 activity, policy or practice of the employer, or of another employer with whom the employee’s  
12 employer has a business relationship, that the employee reasonably believes is in violation of a  
13 law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably  
14 believes poses a risk to public health, safety, or the environment.

15           “Internal Disclosure”, in the event that the supervisor, or any individual or public body to  
16 whom an employer has given the authority to direct and control the work performance of the  
17 affected employee or local public body, appointed or elected, is responsible or involved in any  
18 violation of law, policy or practice or a rule or regulation promulgated pursuant to law or which  
19 the employee reasonably poses a risk to public health, safety or the environment, or for any  
20 conflict of interest as defined under section 6A of chapter 268A, the district attorney’s office of

21 that country and the office of the inspector general shall be immediately notified for investigation  
22 and follow up.

23 SECTION 2. Subsection (a)(5) of said section 185 of chapter 149 of the General Laws, is  
24 hereby amended by inserting, in line 27, after the words “taken against or” the following:-  
25 “adverse working condition placed upon”

26 SECTION 3. Subsection (b) of said section 185 of chapter 149 of the General Laws, is  
27 hereby amended by inserting after subsection (b)(3) the following new sections:-

28 (4) Any public safety employee who discloses or threatens to disclose to a public body or  
29 supervisor or any individual to whom an employee has given the authority to direct and control  
30 the work performance of the affected employee an activity, policy or practice of the employer, or  
31 of another employer with whom the employee’s employer has a business relationship, that the  
32 employee reasonably believes is in violation of the law, or a rule or regulation promulgated  
33 pursuant to law, or which the employee reasonably believes poses a risk to public health, safety  
34 or the environment shall not be punished or receive retaliatory action or adverse working  
35 conditions or by an employer or a supervisor or any individual to whom an employee has given  
36 the authority to direct and control the work performance of the affected employee for refusing to  
37 or objecting to participate in the activity, policy or practice that was disclosed or violation of law  
38 or fears physical harm or injury because of the disclosure.

39 (5) Any witness or spokesperson or union official that discloses or threatens to disclose to  
40 a supervisor or to a public body an activity, policy or practice of the employer, or of another  
41 employer with whom the employee’s employer has a business relationship, that the employee  
42 reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law,  
43 or which the employee reasonably believes poses a risk to public health, safety or environment  
44 on behalf of an individual employee, group or unit of employees shall not be punished by the  
45 employer or receive retaliatory action or adverse working conditions imposed by the employer.

46 (6) Any public safety employee who has disclosed to a public body or supervisor or any  
47 individual to whom an employer has given the authority to direct and control the work  
48 performance of the affected employee a violation of law, or a rule or regulation promulgated  
49 pursuant to law, or activity, policy or practice which the employee reasonably believes poses a  
50 risk to public health, safety or environment shall not be forced by the employer to participate in  
51 any unwarranted or intrusive activity or unreasonable demand because of a disclosure under this  
52 section.

53 (7) Any public safety employee shall not be charged or found to be insubordinate for  
54 opposing conduct or an activity which may be a violation of law, or refusing to participate in any  
55 activity which may be a violation of law or reasonably believes poses a risk to public health,  
56 safety or the environment.

57 SECTION 4. Subsection (g) of said section 185 of chapter 149 of the General Laws is  
58 hereby amended by inserting, in line 100 after the words “has designated” the following:- “or  
59 district attorney’s office with jurisdiction in that county”

60 SECTION 5. Said section 185 of chapter 149 of the General Laws is hereby further  
61 amended by inserting the following new subsections:-

62 (h) Any employer, supervisor, or persons whom the employer has given authority to  
63 direct and control the work performance of the affected employee, or public body whether  
64 elected or appointed, who willfully and wanton takes or participates in retaliatory actions or  
65 imposes adverse work conditions before or after, upon or against an employee who discloses or  
66 threatens to disclose to a supervisor or to a public body as defined in section (3) an activity,  
67 policy or practice of the employer or of another employer with whom the employee’s employer  
68 has a business relationship that the employee reasonably believes is in violation of law or a rule  
69 or regulation promulgated pursuant to law, or which the employee reasonably believes poses a  
70 risk to public health, safety or the environment may be punished in a state prison for not more  
71 than 2 years and fined not more than \$1,000, or both.

72 (i) Any employer, supervisor, witness or any individual whom the employer has given  
73 authority to direct and control the work performance of the affected employee, or public body  
74 whether elected or appointed or municipal official whether elected or appointed that intentionally  
75 provides false information or documentation or statement, testimony or conceals information or  
76 documentation, or refuses to provide or relinquish information or documentation or intentionally  
77 misleads, distorts, or misrepresents documentation or information or facts during an investigation  
78 under this section may be punished in state prison for not more than 2 years and fined not more  
79 than \$1,000, or both.

80 (j) Any employer, supervisor, witness or employee, or public body whether elected or  
81 appointed or municipal official whether elected or appointed found to be in violation of this  
82 section while in the performance of, or acting in their official position or duty in any city, town,  
83 county, district or state agency or municipality within the commonwealth and is convicted by  
84 any state or federal court to be in violation of subsections (h) or (i) shall be required to reimburse  
85 any and all compensation or payment received by the city, town, country, district or state agency  
86 or municipality in which unlawful activity occurred and shall forfeit any further payments,  
87 payout or pension.

88 (k) Any municipality, city, town, county, district or state agency may demand  
89 reimbursement and recover any and all costs incurred by any supervisor, employee or individual  
90 or municipal official whether appointed or elected, or public body whether appointed or elected  
91 that is convicted in any state or federal court for violating any provision of this chapter.