

SENATE No. 1361

The Commonwealth of Massachusetts

PRESENTED BY:

Jennifer L. Flanagan

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 protecting innocent beneficiaries.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Jennifer L. Flanagan

Worcester and Middlesex

Kate Hogan

3rd Middlesex

SENATE No. 1361

By Ms. Flanagan, a petition (accompanied by bill, Senate, No. 1361) of Jennifer L. Flanagan and Kate Hogan for legislation relative to protecting innocent beneficiaries. Public Service.

The Commonwealth of Massachusetts

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

An Act relative to protecting innocent beneficiaries.

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. Section 15 of chapter 32 of the General Laws, is hereby amended by adding
2 after subsection (7) the following: --

3 (8) Innocent Beneficiary – The beneficiary shall be relieved of the forfeiture herein if the
4 beneficiary establishes (a) that he or she did not know and had no reason to know of the
5 member’s conduct, or (b) that it would be inequitable to hold the beneficiary responsible for the
6 member’s conduct, or (c) that the beneficiary is a victim of the member’s conduct.

7 (9) Knowledge or Reason to Know – The beneficiary has knowledge or reason to know
8 of the member’s conduct if he or she actually knew of the conduct when it occurred, or if a
9 reasonable person would have known of the conduct. All of the facts and circumstances are
10 considered in determining whether the beneficiary had reason to know of the conduct. The facts
11 and circumstances include, but are not limited to, the nature of the conduct, the beneficiary’s

12 participation in the conduct, the beneficiary's educational background, and the extent of the
13 beneficiary's willful failure to inquire about the conduct.

14 (10) Inequity – All of the facts and circumstances are considered in determining whether
15 the beneficiary significantly benefitted, directly or indirectly, from the conduct. A significant
16 benefit is any benefit in excess of normal support.

17 (11) Beneficiary as Victim – All of the facts and circumstances are considered in
18 determining whether the beneficiary is a victim of the member's conduct. The word "victim"
19 includes any natural person who suffers direct or threatened physical, emotional, or financial
20 harm as the result of the member's commission or attempted commission of a crime including,
21 but not limited to, violations of abuse prevention orders under chapter 209A and harassment
22 prevention orders under chapter 258E.