SENATE DOCKET, NO. 2645 FILED ON: 7/29/2016

SENATE . . . . . No.

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 prohibiting soliciting acts of terrorism.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Bruce E. Tarr	*First Essex and Middlesex*	
Patrick O'Connor	*Plymouth and Norfolk*	
Richard J. Ross	*Norfolk, Bristol and Middlesex*	
Ryan C. Fattman	*Worcester and Norfolk*	
Timothy R. Whelan	*1st Barnstable*	
Marc T. Lombardo	*22nd Middlesex*	
Leonard Mirra	*2nd Essex*	
David F. DeCoste	*5th Plymouth*	
Shawn Dooley	*9th Norfolk*	
Colleen M. Garry	*36th Middlesex*	
Steven S. Howitt	*4th Bristol*	
Kimberly N. Ferguson	*1st Worcester*	
John C. Velis	*4th Hampden*	
Michael F. Rush	*Norfolk and Suffolk*	
Marcos A. Devers	*16th Essex*	*7/29/2016*
David K. Muradian, Jr.	*9th Worcester*	*7/29/2016*
Susan Williams Gifford	*2nd Plymouth*	*7/30/2016*
Kevin J. Kuros	*8th Worcester*	*7/30/2016*

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SENATE . . . . . No.

By Mr. Tarr, a petition (accompanied by bill, Senate, No.) (subject to Joint Rule 12) of Bruce E. Tarr, Patrick M. OConnor, Richard J. Ross, Ryan C. Fattman and other members of the General Court for legislation to prohibit soliciting acts of terrorism. The Judiciary.

The Commonwealth of Massachusetts

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

An Act prohibiting soliciting acts of terrorism.

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

Chapter 269 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after section 14 the following new section:-

SECTION 14 ½

(a) As used in this section, the term “solicits” shall mean to lure, induce, persuade, tempt, incite, coax, invite, counsel, advise, request or command.

The term "critical infrastructure" shall mean critical public or private infrastructure resource systems involved in providing services necessary to ensure or protect the public health, safety and welfare, including, but not limited to, a public water system or a public water source; an emergency, governmental, medical, fire or law enforcement response system; a public utility system; a financial system; an educational system; or a food or clothing distribution system.

(b) Whoever solicits or otherwise entices or communicates or causes to be communicated or published, either directly or indirectly, orally, in writing, by mail, by use of a telephone or telecommunication device including, but not limited to, electronic mail, internet communications, and facsimile communications, through an electronic communication device or by any other means, the commission of a crime that involves acts dangerous to (i) human life; (ii) property; or (iii) critical infrastructure, shall be punished as follows:

For acts dangerous to human life, by imprisonment for not more than 20 years in the state prison or for not more than 2½ half years in a jail or house of correction, or by a fine of not more than $20,000, or by both such fine and imprisonment.

For acts dangerous to property or critical infrastructure, by imprisonment for not more than 10 years in the state prison or for not more than 2½ years in a jail or house of correction, or by a fine of not more than $10,000, or by both such fine and imprisonment.

If a person is convicted of a crime of solicitation, counsel, advice or enticement for which crime the penalty is expressly set forth in any other section of the General Laws, the provisions of this section shall not apply to said crime and the penalty therefor shall be imposed pursuant to the provisions of such other section.

Any person who is found guilty of solicitation, counsel, advice or enticement which results in the loss of human life shall be punished by imprisonment in the state prison for life and shall be eligible for parole after the term of years fixed by the court pursuant to section 24 of chapter 279.

(c) Notwithstanding any other law, an indictment may be found at any time without limitation for any violation of this section, if the commission of such offense resulted in, or

created a foreseeable risk of, death or serious bodily injury to another person; damage to property; or infrastructure.

(d) The court shall, after conviction, conduct a hearing to ascertain the extent of costs incurred, damages and financial loss suffered by an individual, public or private entity and the amount of property damage caused as a result of the defendant's crime. A person found guilty of violating this section shall, in all cases, in addition to any other punishment, be ordered to make restitution to the individual, public or private entity for any costs incurred, damages and financial loss sustained as a result of the commission of the crime. Restitution shall be imposed in addition to incarceration or fine, and not in lieu thereof, however, the court shall consider the defendant's present and future ability to pay in its determinations regarding a fine. In determining the amount, time and method of payment of restitution, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant.

(e) The attorney general of the commonwealth is hereby authorized and directed to undertake a review and examination of any and all sections and provisions of the general laws relative to acts of terrorism and acts construed as terrorism. Such review and examination shall include but not be limited to: 1) an analysis of the efficacy and suitability of such existing measures to characterize, punish and enable just prosecution of acts of terrorism particularly in light of changes in technology, circumstances, and information obtained by analyzing the methods and strategies employed in terrorist threats and or acts over the past 10 years, 2) an appraisal of the efficacy and suitability of such existing measures, including sanctions and punishments, to deter such acts of terrorism, 3) an identification and cost estimate of any additional resources necessary to protect public safety from terrorist acts or threats thereof, and 4) recommendations, if necessary, for statutory or regulatory changes to address terrorist threats

or acts so as to protect public safety. A report containing the results of said review and examination, together with any legislative and regulatory recommendations, shall be filed with the clerks of the house and senate and the joint committee on public safety and homeland security, not later than May 1, 2017.