HOUSE DOCKET, NO. 1435 FILED ON: 1/18/2017

HOUSE . . . . . No. 917

The Commonwealth of Massachusetts

PRESENTED BY:

Harold P. Naughton, Jr.

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 to curtail gang activity and witness intimidation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Harold P. Naughton, Jr.	*12th Worcester*	*1/18/2017*
Larry Calderone	*Boston Police Patrolmen's Association, Inc. 9-11 Shetland Street, Boston, MA 02119*	*2/3/2017*
Donald Caisey	*Boston Police Detective Benevolent Society 435 Hyde Park Avenue Roslindale, MA*	*2/3/2017*
John E. Nelson	*Mass Coalition of Police AFL-CIO Council PO Box 768, Millbury MA, 01527*	*2/3/2017*

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HOUSE . . . . . No. 917

By Mr. Naughton of Clinton, a petition (accompanied by bill, House, No. 917) of Harold P. Naughton, Jr., and others for legislation to curtail gang activity and witness intimidation by the establishment of municipal judicial safety zones. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act to curtail gang activity and witness intimidation.

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

SECTION 1. The General Laws are hereby amended by inserting after chapter 42 the following new chapter:-

CHAPTER 42A

MUNICIPAL JUDICIAL SAFETY ZONES

Section 1. A municipality, after consultation with the Trial Court and the local District Attorney, may designate an area within a municipality where a courthouse is located or court business is conducted or which the local police department has determined is a high crime area and presents a danger to public safety or constitutes a public nuisance 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.

Section 2. A civil action may be brought to enjoin a specific gang activity within a municipal safety zone by a gang, a gang member or any person who knowingly acts in the capacity of an agent for or accessory to a gang or is accountable for or voluntarily associates with or engages in the following gang related activity;

i. the intimidation of witnesses and victims or their relatives;

ii.the unlawful possession of a pistol, revolver, or other firearm capable of being concealed upon the person;

iii. the illegal sale, delivery, or transfer of a firearm;

iv. the sale, possession for sale, transportation, manufacture, offer for sale of controlled substances, or offer to manufacture controlled substances;

v. discharging or permitting the discharge of a firearm from a motor vehicle;

vi. threats to commit crimes resulting in death or great bodily injury.

Section 3. 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 individuals participating in matters at the courthouse within the judicial safety zone. The court may order monetary damages and the forfeiture of property received as a result of illegal gang activity. No filing fee shall be charged for the filing of any complaint under the

provisions of this chapter. Any relief granted by the court shall be for a fixed period of time of not less than 2 years and not more than 3 years. Upon motion by either party, the court may modify its order at any subsequent time. An action filed under this chapter shall not preclude any other civil or criminal actions. Each order issued by a court shall contain the following statement:

"VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE"

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

A civil action may be brought against a criminal street gang or against any member, associate, leader, officer, agent, or organizer of a criminal street gang who intimidates or threatens witnesses or victims or authorizes, causes, orders, ratifies, requests or suggests the intimidation or threatening of witnesses. An action brought under this section shall also name as defendants the criminal street gang and any gang members that participated in the pattern of criminal gang activity. An action brought under this section may name, as a class of defendants, all unknown criminal gang members.

A civil action may be brought under this section regardless of whether there has been a criminal action related to or in connection with the threatening or intimidation of witnesses, or any injury or damage resulting there from and regardless of the outcome of any such criminal action.

Upon consideration of a complaint for injunctive relief or a cause of action for damages, or both, the Court may, in its discretion, conduct an evidentiary hearing and allow either party to call witnesses and present evidence as deemed necessary by the Court.

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

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

Section 5. Upon the filing of a complaint under this chapter, the court may enter such temporary orders as it deems necessary to protect the community within the safety zone, including relief as provided in section 3. If the plaintiff demonstrates a substantial likelihood of immediate danger, the court may enter such temporary relief orders without notice as it deems necessary to protect the individual and public and shall immediately thereafter notify the defendant that the temporary orders have been issued. Notice shall be made by the appropriate law enforcement agency. The court shall give the defendant an opportunity to be heard on the question of continuing the temporary order and of granting other relief as requested by the plaintiff no later than 10 court business days after such orders are entered.

If the defendant does not appear at such subsequent hearing, the temporary orders shall continue in the effect without further order of the court.

Section 6. Initial public notice of any judicial safety zone shall be given at least 30 days prior to any civil action being commenced under this chapter. Said notice shall be given wide and diverse publication throughout the area of the municipal safety zone and in accordance with generally accepted municipal notice procedures as well as those methods enumerated in section 1 herein.