SENATE DOCKET, NO. 1216 FILED ON: 1/19/2017

SENATE . . . . . No. 1405

The Commonwealth of Massachusetts

PRESENTED BY:

Kenneth J. Donnelly

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 disability pensions for violent crimes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Kenneth J. Donnelly	*Fourth Middlesex*	
Kenneth I. Gordon	*21st Middlesex*	*1/27/2017*
Timothy R. Whelan	*1st Barnstable*	*1/30/2017*
Walter F. Timilty	*Norfolk, Bristol and Plymouth*	*2/2/2017*
Linda Dean Campbell	*15th Essex*	*2/3/2017*

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SENATE . . . . . No. 1405

By Mr. Donnelly, a petition (accompanied by bill, Senate, No. 1405) of Kenneth J. Donnelly, Kenneth I. Gordon, Timothy R. Whelan, Walter F. Timilty and others for legislation relative to disability pensions for violent crimes. Public Service.

The Commonwealth of Massachusetts

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

An Act relative to disability pensions for violent crimes.

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. Section 1 of chapter 32 of the General Laws, as appearing in the 2014 Official Addition, is hereby amended by inserting after the word "inclusive", in line 601, the following definition:-

"Violent act injury", a serious and permanent personal bodily injury sustained as a direct and proximate result of a violent attack upon a person by means of a dangerous weapon, including, by not limited to, a firearm, knife, automobile, explosive device or other dangerous weapon.

SECTION 2. Said chapter 32 is hereby further amended by striking out subsection (1) of section 7 and inserting in place thereof the following subsection:-

Section 7. (1) Conditions of Allowance. Any member in service classified in Group 1, Group 2 or Group 4, or any member in service classified in Group 3 to whom the provisions of subdivision (2) of section twenty-six are not applicable, who is deemed to be unable to perform

the essential duties and responsibilities of the member's job and that such inability is likely or deemed permanent before attaining the maximum age for the member's group by reason of a personal injury or violent act injury sustained or a hazard undergone as a result of, and while in the performance of the member's duties at some definite place and at some definite time on or after the date of becoming a member or prior to such date while any provision of this chapter relating to noncontributory pensions was applicable to the member, without serious and willful misconduct on the member's part, upon the member's written application on a prescribed form filed with the board and the member's respective employer or upon such an application by the head of the member's department after a hearing, if requested, as provided for in subdivision (1) of section sixteen and subject to the conditions set forth in said section and in this section, shall be deemed retired for an accidental disability as of a date which shall be specified in such application and which shall be not less than fifteen days nor more than four months after the filing of such application but in no event later than the maximum age for the member's group. Except as provided for in subdivision (3) of this section, no such retirement shall be allowed unless such injury or violent act injury was sustained or such hazard was undergone within two years prior to the filing of such application or, if occurring earlier, unless written notice thereof was filed with the board by such member or in his behalf within ninety days after its occurrence. No such retirement shall be allowed unless the board, after a review of the evidence it deems appropriate, and after a review by the commission, pursuant to the provisions of section twenty-one, and including in any event on examination by the regional medical panel provided for in subdivision (3) of section six and including a certification of such incapacity by a majority of the physicians on such medical panel, shall find that such member is unable to perform the essential duties of his job and that such inability is likely to be permanent, and that he should be so retired.

Any member who was injured while a member of a retirement system established in any governmental unit other than that by which he is presently employed, and who has complied with the provisions of this section as to notice, or whose case falls under paragraph (3), shall file such application with the retirement board of the unit where he is presently employed. Such board shall secure a statement of facts and records, which it shall be the duty of the retirement board of the first governmental unit to furnish, and on which it shall be entitled to make recommendations.

Prior to the determination of a retirement under this section a member shall submit to the retirement board a written statement authorizing release of information from the federal internal revenue service and the department of revenue relative to the annual gross earned income of the member in pursuant to an agreement between the federal internal revenue service, the department of revenue, and the public employee retirement administration commission in accordance with section ninety-one A.

SECTION 3. Paragraph (a) of subsection (2) of said section 7 of said chapter 32 is hereby amended by inserting after clause (iii) the following clause:-

(iv) a yearly amount of pension for any member classified as Group 3 or Group 4, payable each and every month, equal to 100 per cent of their regular compensation, including all applicable benefits and stipends, that the member was earning on the date that such injury was deemed a violent act injury, as defined in section 1 of this chapter. In addition, such member who shall become permanently disabled under this provision shall be entitled to any and all periodic pay increases, including all applicable benefits and stipends that the member would have been entitled to by way of the member’s respective collective bargaining agreement should the

member have been continually employed with the department but for sustaining the violent act injury in the course of their employment. Such periodic pay increases shall continue until the last of the month when the member turns 65 years of age; provided that, thereafter the member shall be entitled to 100 per cent of the annual pension as of the date of the last of the month when the member turns 65, including any cost of living increases as defined in sections 102 and 103 of this chapter. In the event that the member shall predecease their spouse, the member's spouse shall be entitled to 75 per cent of the annual pension, paid monthly, as long as such spouse shall live, including all aforementioned annual increases until the member would have turned 65 years of age; provided that, thereafter the member's spouse shall be entitled to 75 per cent of the member's annual pension as of the date of the last of the month when the member would have turned 65, including any cost of living increases as defined in sections 102 and 103 of this chapter.

Nothing in this provision or any other section of the general laws or regulations shall limit the member's aforementioned retirement benefit and/or restrict the member from seeking accommodating employment by any entity or agency which is not classified under Groups 1-4, inclusive, of the retirement system.