SENATE DOCKET, NO. 2998 FILED ON: 7/7/2020

# SENATE . . . . . No. 2850

## The Commonwealth of Massachusetts

PRESENTED BY:

***Nick Collins***

*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 false reporting of an emergency.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Nick Collins* | *First Suffolk* |
| *Chynah Tyler* | *7th Suffolk* |

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# SENATE . . . . . No. 2850

By Mr. Collins, a petition (accompanied by bill, Senate, No. 2850) (subject to Joint Rule 12) of Nick Collins and Chynah Tyler for legislation relative to false reporting of an emergency. The Judiciary.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court**
**(2019-2020)**

An Act relative to false reporting of an emergency.

*Whereas,* The deferred operation of this act would tend to defeat its purpose, which is to protect the public from malicious false reporting of crimes , therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and health.

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

Section 14B of Chapter 269 of the Massachusetts General Laws is hereby amended by striking the section in its entirety and inserting in place thereof the following section:-

Section 14B. Willful and malicious communication of false information to public safety answering points; penalty; restitution

As used in this section, the following words shall have the following meanings:--

“Emergency response services provider”, a police department, fire department, emergency medical service provider, PSAP, public safety department, private safety department or other public safety agency.

"PSAP", a facility assigned the responsibility of receiving 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying emergency 911 calls to other public or private safety agencies or other PSAPs.

"Silent call", a call or other communication made to a PSAP in which the initiating party fails to provide information regarding his or her identity or location or the nature of the emergency. The initiating party shall not be considered to have provided any information that is automatically transmitted by a communication device or network upon connection with a PSAP including, but not be limited to, automatic location information and automatic number information.

"Emergency", a condition or situation in which an individual has a need for an emergency response services provider or immediate medical attention, or where the potential for such need is perceived by the individual, a bystander or an emergency medical services provider.

"Substantial bodily injury"  bodily injury which creates a permanent disfigurement, protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

(a) Any person who willfully and maliciously communicates with a PSAP, or an emergency response services provider, or causes a communication to be made to a PSAP, which communication transmits information which the person knows or has reason to know that it is a false report and which results in the dispatch of emergency services to a nonexistent emergency or to the wrong location of an actual emergency is guilty of a misdemeanor and upon conviction shall be punishable by imprisonment in a jail or house of correction for not more than 6 months, or by a fine of not more than two hundred ($200), or by both such fine and imprisonment.

(b) Any person who willfully and maliciously, makes or causes a second or sub-sequent false report(s) to be made or a second or subsequent silent call(s) to be made to any PSAP and thereby causes emergency services to be dispatched, shall be punishable by imprisonment in the house of correction for not more than 1 year or by a fine of not more than $1,000.

(c) Any person who willfully and maliciously communicates with a PSAP, or an emergency response services provider, or causes a communication to be made to a PSAP, or an emergency services provider, which communication transmits information which the person knows or has reason to know that it is a false report and which results in the dispatch of emergency services to a nonexistent emergency or to the wrong location of an actual emergency, who knows or should know, or recklessly disregards that the response to the report is likely to cause great bodily harm or death, and death or great bodily harm is sustained by any individual as a result of the false report, is guilty of a felony and upon conviction shall be punishable by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2 ½ years, or by a fine of not more than five thousand ($5,000), or by both that fine and imprisonment.

(d) Any person who willfully and maliciously communicates with a PSAP, or an emergency response services provider, or causes a communication to be made to a PSAP, or an emergency services provider, which communication transmits information which the person knows or has reason to know that it is a false report and which results in the dispatch of emergency services to a nonexistent emergency, where the report was motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender, gender identity or sexual orientation prejudice, or which otherwise deprives another person of their constitutional rights by threats,

intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation, is guilty of a misdemeanor and if convicted shall be punished by imprisonment up to 2 ½ years in a jail, or a fine up to five thousand ($5,000), or by both imprisonment and fine. A person convicted of this section shall also complete a diversity awareness program designed by the secretary of the executive office of public safety in consultation with the Massachusetts commission against discrimination and approved by the chief justice of the trial court. A person convicted shall complete such program prior to release from incarceration or prior to completion of the terms of probation, whichever is applicable.

(e) Any person who willfully and maliciously communicates with a PSAP, or an emergency response services provider, or causes a communication to be made to a PSAP, or an emergency services provider, which communication transmits information, which the person knows, or has reason to know that it is a false report, and which results in the dispatch of emergency services to a nonexistent emergency, where the report was motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender, gender identity or sexual orientation prejudice, or which otherwise deprives another person of their constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation, that is likely to cause great bodily harm or death is guilty of a felony and if convicted shall be punished by a fine of not more than ten thousand ($10,000) or by imprisonment for not more than ten years, or by both imprisonment and fine. A person convicted shall also complete a diversity awareness program designed by the secretary of the executive office of public safety in consultation with the Massachusetts

commission against discrimination and approved by the chief justice of the trial court. A person convicted shall complete such program prior to release from incarceration or prior to completion of the terms of probation, whichever is applicable.

(f) Upon any conviction under this section, the court shall conduct a hearing to ascertain the ex-tent of costs incurred, and damages and financial loss sustained by any emergency response services provider as a result of the violation and shall order the defendant to make restitution to the emergency response services provider or providers for any such costs, damages or loss. The court shall consider the defendant's present and future ability to pay restitution in its de-terminations relative to the imposition of a fine. In determining the amount, time and method of payment of restitution, the court shall consider the defendant’s employment status, earning ability, financial resources, living expenses, dependents and any special circumstances that may have bearing on their ability to pay. The court may waive restitution or modify the amount, time or method of payment if such restitution payment would cause a substantial financial hardship to the defendant or the defendant’s immediate family or the defendant’s dependents.

(g) Any individual who was the target of a false report in violation of any of these sections, may bring a civil action against the person who violated this act or any other individual that knowingly benefits financially or receiving anything of value in result of the false emergency, and may recover damages or any other appropriate relief, which may include attorney’s fees. If a victim of a false emergency call suffers a financial loss, then a judge can and may order restitution.