

Lieutenant Governor Timothy P. Murray
Testimony before the Joint Committee on the Judiciary
Public Hearing Re: H.1137, an Act to Protect and Enhance the Rights of Child and
Adult Victims and Witnesses of Crime
Tuesday, July 14, 2009
Gardner Auditorium

Thank you Chairman O'Flaherty, Chairwoman Creem, and all the other members of the Joint Committee on the Judiciary for the opportunity to testify in support of continued protections and rights for child and adult victims and witnesses of crime.

I would also like to thank the Victim and Witness Assistance Board (VWAB) and the Massachusetts Office for Victim Assistance (MOVA) for their leadership in the area of victim and witness rights and for crafting a critical piece of legislation, S1559, which we also support, entitled: "An Act to Protect and Enhance the Rights of Victims and Witnesses of Crime." This legislative proposal includes a vast amount of input from victims, survivors, victim advocates, and many others who recognize the changes in the current needs of victims and witnesses of crime.

Twenty-five years ago, the Commonwealth enacted the Massachusetts Victim Bill of Rights. At the time, this was considered the most comprehensive bill for victims' rights in the United States. Over the years, this bill has resulted in countless victims, witnesses, and their families receiving critical rights, services, and assistance necessary to participate in an often confusing and intimidating criminal justice process. We have been a leader in this area and have pushed other states to follow us.

I would like to bring to focus three aspects of the Administration's legislative proposal: 1) enhancing services available to victims and witnesses of crime, 2) creating stricter laws for strangulation, and 3) creating a statutory scheme parallel to Chapter 209A to allow restraining orders for victims of harassment without the need of a household or substantive dating relationship.

As of June 7th, Jane Doe, Inc. reported 15 domestic violence related deaths this year in Massachusetts. There are many others who have escaped death but have fallen to injury, harassment, and violence in our communities across the Commonwealth. Considering all of these perilous situations, it is imperative that we seek out resources to support victims and witnesses and we also increase awareness.

Enhancing the services as outlined in this legislative proposal ensures broader notification of existing victims' rights, including making notice available and accessible to non-English speaking victims and witnesses, and to families of victims in unsolved homicides. It also ensures a basic sense of security in the Commonwealth's courthouses for victims and witnesses, which will significantly help protect against all too common threats and intimidation of witnesses when they go to court.

It is critical that we continue to take proactive steps to develop creative ways to include and enhance best practices in our system. Recognizing recent service cuts, this legislative proposal includes revenue neutral provisions that will make the prosecution process more accessible and accommodating to victims, which will also encourage their meaningful participation. Provisions of the bill allow for reasonable alternatives to the current system that meet the range of individual challenges and needs that present barriers for these populations.

A second aspect of this legislative proposal includes stricter laws for the strangulation crime by making strangulation or suffocating a household or family member a felony offense with greater punishment for aggravating factors such as causing serious bodily injury or pregnancy of the victim.

According to the Minnesota Coalition for Battered Women Research, most domestic homicides are preceded by an incident of strangulation. Closer to home, of the 42 cases the Greater Newburyport Domestic Violence High Risk Team worked with over two years, 55 percent experienced a non-fatal strangulation. Statistics by Jackie Campbell's Danger Assessment study also indicate that women who were choked or strangled in a prior violent episode are actually 9.9 percent more likely than other women to be murdered.

Passage of this legislative proposal will have two primary benefits. First, this statute will provide the District Attorneys with another tool to hold batterers accountable. Additionally, it will increase public awareness of the seriousness of choking and strangulation as a predictor of lethality in domestic violence cases.

And finally, the third piece of this legislation acknowledges that the requirement of establishing an intimate and/or substantial dating relationship between victim and offender is a barrier to accessing a restraining order—an important tool for many victims of sexual assault and stalking.

This exclusion does not enamor victims to the criminal justice system; it often alienates victims who might otherwise consider a prosecution. After all, if a victim, in these categories, who does not commence a prosecution, cannot be protected by a simple restraining order, how will police ever convince them that they can protect them once their offender is arrested and charged and therefore far more motivated to harass and intimidate them?

I respectfully ask this committee to report H1137 out favorably.

Secretary Kevin M. Burke is also present today to testify on behalf of the Administration on the Administration's Gun Bill, H4102.

Thank you.