

Testimony of Attorney General Martha Coakley
An Act Relative to Gaming in the Commonwealth
Senate Committee on Ways and Means
June 8, 2010

Good morning Chairman Panagiotakos, and members of the Committee, thank you for the opportunity to join you today to comment on the Senate's proposed gaming legislation, *An Act Relative to Gaming in the Commonwealth*. It has been almost a year since I testified before Chairman Spilka and the other members of the Economic Development & Emerging Technologies Committee about the prospect of legalizing gaming in the Commonwealth. At that informational hearing, my testimony set forth general comments and concerns about the necessity of proper structures and tools to ensure that any gaming endeavor is executed effectively, including: (1) a comprehensive regulatory and licensing regime; and (2) public protection mechanisms for law enforcement, consumer protection and public health.

Much has transpired on this topic since I testified last June. In August of 2009, I along with a coalition of legislators, District Attorneys and law enforcement organizations, filed *An Act to Combat Economic Crime*, which includes the crimes of money laundering and enterprise crime, and which proposes updates to our wire interception law. Months later, on April 14 of this year, the House of Representatives passed comprehensive legislation to legalize gaming in the Commonwealth, and included those money laundering and enterprise crime proposals. Today, as you and your fellow members in the Senate consider your own proposed gaming legislation, I have some observations to share with you.

The respective gaming proposals have regulatory structures that work to address the various considerations I raised last year, such as conflict of interest issues, detailed

background investigations on potential licensees, and much needed governmental oversight to audit financial records, gaming machines, table game practices, etc. No regulatory structure can completely eliminate the risk of undue influence and/or corruption, but the proposals are certainly thoughtful, comprehensive attempts to do so.

I want to raise some specific concerns about the proposed legislation for your consideration today.

First, I have said consistently that as we explore the possibility of expanded gaming in the Commonwealth, it is critical that we have the regulatory and statutory structures in place to address the types of financial crimes and corruption that may be associated with legalized gaming. An important component of those efforts is the adoption of strong prohibitions against money laundering and enterprise crimes in our Commonwealth. As I mentioned, our office has filed legislation that we believe will provide law enforcement with the tools to most effectively combat that criminal activity.

One concern is that the bill before us today has narrowed that enterprise crime language in a manner that will hinder law enforcement's ability to protect the public.

It narrows the list of predicate crimes - that is, the crimes upon which the organized criminal activity is based, and provides the income or other benefit to the enterprise. Predicate crimes should include crimes such as rape, child sexual assault, bribery and other violations. We know such crimes can, and do now, form the basis and benefit to criminal enterprise activity. For example, a prostitution ring would likely involve child rape crimes, and thus such crimes should be included as predicate offenses. Bribery should also be included as a predicate crime: a pattern of bribery which enables preference to a potential gaming licensee or for other benefits related to the start-up and

ongoing functioning of gaming facilities should be prosecutable as part of our efforts to thwart enterprise crime.

Secondly, this bill narrows the enterprise crime language by requiring that all criminal enterprise activity be linked to gaming. Specifically, to be illegal under this bill the enterprise crime must “affect” legalized gaming. This limitation adds an additional element and burden of proof that benefits criminals and will allow them to avoid prosecution in some instances. For example, if an organization runs a child prostitution ring in a hotel on casino property, does that “affect” legalized gaming? If laundered money is then used to fund a gun and drug ring, does that “affect” gaming? Currently, 32 states and the federal government have enterprise crime statutes on the books. Other than Illinois’ enterprise crime that focuses on narcotics, no other state narrows the enterprise to gaming or any other specified conduct.

Moreover, as our economy has struggled in recent years, we have more sophisticated, organized, and often large-scale schemes to steal money or otherwise profit from illegal conduct. Corrupt business enterprises and sophisticated street gangs are very difficult to prosecute at the state level because police and prosecutors simply do not have the necessary tools to investigate and prosecute them. Limiting “enterprise crime” to gaming will hinder the ability of law enforcement to deter and punish those engaged in other corrupt business enterprises such as large-scale drug, gun and human trafficking, identity theft rings, and traditional organized street gangs.

I urge you to adopt our enterprise crime language, already adopted in April, to enhance public safety and security, and to provide the necessary public protection.

Finally, I will reiterate my testimony of last June about the cost of this endeavor: All of these structures, oversight mechanisms, and law enforcement and public health considerations will cost money. Without estimating costs of operating a gaming commission/agency and a licensing regime, of overseeing gaming operations, enforcing gaming violations, and protecting public health, we cannot fully estimate the benefit of gaming to Massachusetts. Funding streams should be dedicated for the various consumer protections that the legislation calls for, such as the provisions for substance abuse treatment, exclusion lists, and financial auditing of licensees. We should be careful not to underestimate such costs, as we must be prepared to adequately pay them.

If the legislature does move forward with legalized gaming in the Commonwealth, the Attorney General's office will work to ensure that the regulatory oversight system and the gaming business itself is operating with highest level of public integrity and fairness.

I am happy to work with you and your colleagues as you hear from other stakeholders to ensure that any final legislation has the most comprehensive and effective regulatory and public protection mechanisms possible. Thank you.