

## AN ACT TO COMBAT ECONOMIC CRIME

### MONEY LAUNDERING

As we continue to face the challenges of an unprecedented economic downturn, financial crimes are rising at an alarming rate. Money laundering, which entails concealing the source of illegally obtained money, is prohibited by federal law and at least 28 states across the country. This activity has proven to be critical in the furtherance of large-scale, illegal enterprises such as terrorism, narcotics trafficking and other organized crime, and is particularly prevalent where casino gambling is legal. Our proposed money laundering bill aims to combat and prevent money laundering by making such activity illegal in the Commonwealth.

Specifically, our money laundering legislation:

- Derives from our current criminal laws by further criminalizing what is already considered criminal activity in the Commonwealth. In other words, those who conceal or use proceeds obtained from activity that is already criminal to further such practices are subject to this additional crime under this bill.
- Makes it a crime to knowingly:
  - engage in a financial transaction derived from criminal activity with the intent to promote, carry on or facilitate criminal activity;
  - engage in a financial transaction derived from criminal activity knowing that the transaction is designed to conceal the property derived from criminal activity;
  - avoid any legal requirements regarding financial transaction reporting as set forth in the bill;
  - transport or possess a monetary instrument or other property that was derived from criminal activity; or
  - direct or control the transportation of or transactions in monetary instruments or other property derived from criminal activity.
- Provides punishment as follows:
  - state prison for not more than 6 years;
  - a fine of not more than \$250,000 or twice the value of the property transacted (greater amount); or both.
  - **subsequent offense:** state prison for not less than 2 years, but not more than 8 years;
  - a fine of not more than \$500,000 or three times the value of the property transacted; or both.

- Allows for forfeiture of money and property involved in money laundering.
- Requires reporting for certain financial transactions over \$10,000 consistent with federal requirements.

## **ENTERPRISE CRIME**

In 2008, the Attorney General's Office created the Enterprise and Major Crimes Division to focus on illegal activity such as traditional and non-traditional criminal enterprises and organizations, including so-called organized crime families, street gangs, and large-scale drug and human trafficking groups. Many of these organizations have sophisticated structures and extensive supporting networks that allow them to engage in multiple criminal activities, such as money laundering, illegal gambling, running drugs and guns, credit card and identity theft, and other types of fraud.

This enterprise crime bill provides tools necessary to investigate and mitigate illegal practices in the Commonwealth by prohibiting patterns of certain crimes committed by corrupt enterprises. This will, among other things, allow ring leaders and major players, who control and direct the enterprise but often do not partake in the actual commission of the crime, to be deterred and held accountable.

Specifically, our enterprise crime legislation:

- Derives from our current criminal laws by further criminalizing what is already considered criminal activity in the Commonwealth. In other words, those who engage in a pattern of what is already criminal activity to further unlawful enterprises are subject to this additional crime under this bill.
- Delineates certain crimes, such as murder, extortion and kidnapping, as "criminal enterprise activities."
- Defines "pattern of criminal enterprise activity" as engaging in at least 2 such activities that have a same or similar pattern, intents, results, accomplices, victims, methods of commission, etc.
- Makes it a crime, through a pattern of criminal enterprise activity or through the collection of an unlawful debt, to knowingly:
  - receive proceeds derived from such activity;
  - use the proceeds to establish, operate, or acquire any enterprise;
  - receive anything of value or acquire any interest in or control of any enterprise; or

- be employed by or associated with any enterprise to conduct or participate in the enterprise by engaging in a pattern of criminal enterprise activity or through the collection on an unlawful debt.
- Provides punishment as follows:
  - state prison for not less than 5 years and not more than 15 years;
  - a fine of not more than \$25,000; or both.
- Allows for forfeiture of money and property regarding direct violations of the Act.

### **WIRE INTERCEPTION LAW UPDATES**

Massachusetts has had some form of a wiretap statute since 1925. In 1968, following the adoption of the federal wiretap statute, we rewrote our statute to comply with the federal mandates. Despite much needed changes due to technological advancements in telecommunications and changes in the nature and structure of criminal enterprises and communications, our law has remained virtually the same since 1968. Our wire interception bill provides necessary updates to this law by:

- Updating the current law by accounting for today's technological advancements, such as the addition of a definition for an "electronic communication".
- Updating the current law by designating new crimes eligible for the use of a lawful interception so that criminal investigations can effectively keep up with technological advancements.
- Extending the amount of time that a lawful interception can remain open from 15 to 30 days to account for the breadth and complexities of investigations in 2009. Currently, prosecutors are often just finishing the paperwork for the investigation by the time the 15 day period is set to expire.
- Allowing lawful, court approved one party consent monitoring and recording of conversations in investigations of certain crimes.