

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Walsh, Marian (SEN)**

*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 passage of the accompanying bill:

An Act relative to legal actions commenced in badfaith.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Walsh, Marian (SEN)	Suffolk and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S01040 OF 2007-2008.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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AN ACT RELATIVE TO LEGAL ACTIONS COMMENCED IN BADFAITH.

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

1           SECTION 1. Chapter 231 of the General Laws, as appearing in the 2004 Official Edition,  
2 is hereby amended by inserting after section 6F the following section: -

3   6F ½. No civil or criminal action, claim, pleading, demand or related document shall be initiated  
4 against, filed or served on a victim of a crime that involves the infliction or the threat of  
5 infliction of bodily injury by or on behalf of a person who has been charged with, convicted of,  
6 or against whom a finding of sufficient facts for conviction has been made, of such a crime  
7 unless the person first establishes to a court with jurisdiction over such matters that the action,  
8 claim, pleading, demand or related document is being advanced in good faith.

9   If the court finds that such action, claim, pleading, demand or related document is not being  
10 advanced in good faith the court shall dismiss or otherwise dispose of the same. If the person  
11 seeking to advance such matter is a committed offender as defined in section 1 of chapter 125,

12 the court shall, in addition to dismissing or disposing of the same, order that the committed  
13 offender lose up to 60 days of good conduct credit earned or to be earned pursuant to section  
14 129C or 129D of chapter 127. If said person is not a committed offender, the court shall, in  
15 addition to dismissing or disposing of the same, award to the victim an amount representing the  
16 reasonable counsel fees and other costs and expenses incurred in defending against such matter.  
17 If the victim was not represented by counsel, the court shall award an amount representing his  
18 reasonable costs, expenses and effort in defending against such matter. Any such action, claim,  
19 pleading, demand or other legal document initiated, filed or served without a finding by the court  
20 that the same is being advanced in good faith shall be dismissed or otherwise disposed of upon  
21 motion or sua sponte.

22 In determining if such action, claim, pleading or demand is being advanced in good faith, the  
23 court shall consider whether it is being presented for any improper purpose, such as to harass or  
24 to cause unnecessary delay or needless increase in the cost of litigation.

25 For the purposes of this section, a victim is any person who has suffered or received a threat to  
26 bodily injury. Bodily injury means substantial impairment of the physical condition including  
27 any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury  
28 which occurs as the result of repeated harm to any bodily function or organ including human skin  
29 or any physical condition which substantially imperils a person's health or welfare.

30 No court shall consider a finding made under this section in any subsequent civil or criminal  
31 action, provided that a court may consider the same in any motion filed under section 6F.