

Justice Trainer  
Fall 2009  
Drafting & Enacting  
Legislation

The final exam consists of two parts:

Part A. Take home drafting exercise

Part B. In class exam on the procedure and requirements of enacting legislation and drafting legislation

TAKE HOME EXAM

1. Penalties for violating the provisions of G. L. c. 120E1/2 are included in clauses (d) and (e).

Both clauses provide a punishment for the first offense or a fine of not more than five hundred dollars or not more than three months in a jail or house of correction or both, and subsequent offenses are punished by a fine of not less than five hundred dollars or not more than 2 1/2 years in a jail or house of correction, or both fine and imprisonment.

Amend both clauses to provide punishment for the first offense of not less than five hundred dollars and not more than one thousand dollars or by imprisonment of not more than six months in a jail or house of correction, or both fine and imprisonment. Subsequent violations shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars or by imprisonment of not less than six months nor more than 2 1/2 years in a jail or house of correction, or both fine and imprisonment.

2. Times have changed and, while in the early 1900's the legislature prohibited the sale or exchange of imitation fur which is represented to be genuine fur, our sensibilities are now exactly the opposite. Rep. Quisenberry would like you to amend G. L. c. 266, § 79 to prohibit the sale or exchange of genuine (real) fur which is represented to be imitation fur.

Also

Add a new section to G. L. c. 266 which prohibits the sale or exchange of genuine leather which is represented to be imitation leather.

Both proposed changes should be included in a single proposed Act.

3. The Town of Ripton has been plagued recently with vandalism. Hooligans are breaking glass on its only public beach located on Darey's pond. Since the youth of Ripton are all above average and law abiding citizens the hooligans are almost certainly from nearby communities. Rep. Quisenberry has asked you to draft legislation increasing the penalties contained in G. L. c. 265, § 32. He wants a fine of not more than a thousand dollars or imprisonment of not more than one year, in a house of correction, or both fine and imprisonment.

4. The Town of Ripton is losing many of its historic stonewalls to greedy landscapers from nearby communities. The penalty for unauthorized removal of stone walls is only ten dollars. (G. L. c. 266, § 105)

Rep Quisenberry has asked you to draft a legislative proposal increasing the penalty to a fine of not less than five hundred dollars or imprisonment in a house of correction of not less than three months or both fine and imprisonment.

5. The Appeals Court has asked Rep. Quisenberry to increase its proposed appropriation, as recommended by the Senate Ways and Means Committee. The Appeals Court has always been supportive of the Town of Ripton, so the Rep. is willing to offer a floor amendment.

Draft a floor amendment increasing the appropriation by one million dollars.

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2008  
OFFICIAL  
EDITION



# GENERAL LAWS OF MASSACHUSETTS

PREPARED UNDER THE DIRECTION OF  
THE GENERAL COURT

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14

CHAPTERS  
229-282

that any person or entity is about to engage in conduct proscribed herein 28  
 may commence a civil action for injunctive and other equitable relief, in- 29  
 cluding the award of compensatory and exemplary damages. Said civil 30  
 action shall be instituted either in superior court for the county in which 31  
 the conduct complained of occurred, or in the superior court for the 32  
 county in which any person or entity complained of resides or has a prin- 33  
 cipal place of business. An aggrieved facility which prevails in an action 34  
 authorized by this paragraph, in addition to other damages, shall be en- 35  
 titled to an award of the costs of the litigation and reasonable attorney's 36  
 fees in an amount to be fixed by the court. 37

Nothing herein shall be construed to interfere with any rights provided 38  
 by chapter one hundred and fifty A or by the federal Labor- 39  
 Management Act of 1947 or other rights to engage in peaceful picketing 40  
 which does not obstruct entry or departure. 41

#### 266:120E½. Reproductive health care facilities

Section 120E½. (a) For the purposes of this section, "reproductive 1  
 health care facility" means a place, other than within or upon the 2  
 grounds of a hospital, where abortions are offered or performed. 3

(b) No person shall knowingly enter or remain on a public way or side- 4  
 walk adjacent to a reproductive health care facility within a radius of 35 5  
 feet of any portion of an entrance, exit or driveway of a reproductive 6  
 health care facility or within the area within a rectangle created by ex- 7  
 tending the outside boundaries of any entrance, exit or driveway of a re- 8  
 productive health care facility in straight lines to the point where such 9  
 lines intersect the sideline of the street in front of such entrance, exit or 10  
 driveway. This subsection shall not apply to the following:— 11

(1) persons entering or leaving such facility; 12

(2) employees or agents of such facility acting within the scope of their 13  
 employment; 14

(3) law enforcement, ambulance, firefighting, construction, utilities, 15  
 public works and other municipal agents acting within the scope of their 16  
 employment; and 17

(4) persons using the public sidewalk or street right-of-way adjacent to 18  
 such facility solely for the purpose of reaching a destination other than 19  
 such facility. 20

(c) The provisions of subsection (b) shall only take effect during a fa- 21  
 cility's business hours and if the area contained within the radius and 22  
 rectangle described in said subsection (b) is clearly marked and posted. 23

(d) Whoever knowingly violates this section shall be punished, for the 24  
 first offense, by a fine of not more than \$500 or not more than three 25  
 months in a jail or house of correction, or by both such fine and impris- 26



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onment, and for each subsequent offense; by a fine of not less than \$500 and not more than \$5,000 or not more than two and one-half years in a jail or house of correction, or both such fine and imprisonment. A person who knowingly violates this section may be arrested without a warrant by a sheriff, deputy sheriff or police officer if that sheriff, deputy sheriff, or police officer observes that person violating this section.

(e) Any person who knowingly obstructs, detains, hinders, impedes or blocks another person's entry to or exit from a reproductive health care facility shall be punished, for the first offense, by a fine of not more than \$500 or not more than three months in a jail or house of correction, or by both such fine and imprisonment, and for each subsequent offense, by a fine of not less than \$500 nor more than \$5,000 or not more than two and one-half years in a jail or house of correction, or by both such fine and imprisonment. A person who knowingly violates this provision may be arrested without a warrant by a sheriff, deputy sheriff or police officer.

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(f) A reproductive health care facility or a person whose rights to provide or obtain reproductive health care services have been violated or interfered with by a violation of this section or any person whose rights to express their views, assemble or pray near a reproductive health care facility have been violated or interfered with may commence a civil action for equitable relief. The civil action shall be commenced either in the superior court for the county in which the conduct complained of occurred, or in the superior court for the county in which any person or entity complained of resides or has a principal place of business.

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**266:120F. Unauthorized access to computer system; penalties**

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Section 120F. Whoever, without authorization, knowingly accesses a computer system by any means, or after gaining access to a computer system by any means knows that such access is not authorized and fails to terminate such access, shall be punished by imprisonment in the house of correction for not more than thirty days or by a fine of not more than one thousand dollars, or both.

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The requirement of a password or other authentication to gain access shall constitute notice that access is limited to authorized users.

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**266:121. Entry on land with firearms**

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Section 121. Whoever, without right, enters upon the land of another with firearms, with intent to fire or discharge them thereon, and, having been requested by the owner or occupant of such land or by his agent to leave such land, remains thereon, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than two months, or both.

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such article is enclosed or wrapped, any word or mark indicating or designed or intended to indicate that the gold or alloy of gold upon such article is of a greater percentage of weight of the article by more than one per cent than the actual percentage of gold or alloy of gold, shall be punished by a fine of not more than five hundred dollars. The word or mark upon the article or upon the tag or label attached thereto, or upon the package, cover or wrapper in which such article is enclosed, shall be held to apply to the whole article, all the gold, alloys, solder and base metals being assayed as one piece, unless the word or mark plainly indicates that it applies to the plating, surface or other particular part of such article.

**266:79. Imitation of furs; false representation; prohibition**

Section 79. Whoever, himself, or by his agent or servant, or as the agent or servant of another person, sells or exchanges, or has in his custody or possession with intent so to do, or exposes for sale or exchange any manufactured imitations of furs of fur-bearing animals, representing the same to be the genuine fur of certain animals, shall be punished by a fine of not less than two hundred nor more than five hundred dollars.

**266:80. Encumbered land; conveyance without notice**

Section 80. Whoever conveys land, knowing that an encumbrance exists thereon, without informing the grantee, before the consideration is paid, of the existence and nature of such encumbrance, so far as he has knowledge thereof, shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars.

**266:81. Attached land; conveyance without notice**

Section 81. Whoever, knowing that his land is attached on mesne process, sells and conveys it without giving notice of the attachment to the grantee, and with intent to defraud, shall be punished by imprisonment in the state prison for not more than three years or in jail for not more than one year.

**266:82. Concealment of mortgaged personalty; use of rented personalty in legal sale of liquor**

Section 82. Whoever, with a fraudulent intent to place personal property which is subject to a mortgage beyond the control of the mortgagee, removes or conceals or aids or abets in removing or concealing the same, and a mortgagor of such property who assents to such removal or concealment, or whoever shall use rented, leased or mortgaged personal property as a container or implement of sale of intoxicating liquor contrary to law, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.

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 ing with intent to stupefy or over-  
 awful authority, forcibly or secretly  
 within the commonwealth against his  
 person out of the commonwealth, or  
 or kidnap such person with intent  
 or imprisoned in the commonwealth  
 be sent out of the commonwealth  
 to service against his will, shall be  
 e prison for life or for any term of  
 ever violates the provisions of this  
 ey or other valuable thing thereby  
 the state prison for life or for any  
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**ement of child under age 16; punish-**

ction, the term "entice" shall mean  
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 er the age of 16, or someone he be-  
 16, to enter, exit or remain within  
 her outdoor space with the intent  
 section 13B, 13F, 13H, 22, 22A, 23,  
 6, 28, 29, 29A, 29B, 29C, 35A, 53 or  
 at has as an element the use or at-  
 hed by imprisonment in the state  
 in the house of correction for not  
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section twenty-six may be tried in  
 y county in or to which the person  
 onfined, held, carried or brought;  
 he consent thereto of the person so  
 d shall not be a defence unless the  
 obtained by fraud or extorted by  
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**265:28. Poison; use with intent to injure; punishment**

Section 28. Whoever mingles poison with food, drink or medicine  
 with intent to kill or injure another person, or wilfully poisons any  
 spring, well or reservoir of water with such intent, shall be punished by  
 imprisonment in the state prison for life or for any term of years.  
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**265:29. Assault; intent to commit felony; punishment**

Section 29. Whoever assaults another with intent to commit a felony  
 shall, if the punishment of such assault is not hereinbefore provided, be  
 punished by imprisonment in the state prison for not more than ten  
 years or by a fine of not more than one thousand dollars and imprison-  
 ment in jail for not more than two and one half years.  
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**265:30. Gross negligence; persons having care of common carrier; penal**

Section 30. Whoever, having the management or control of or over a  
 steamboat or other public conveyance used for the common carriage of  
 persons, is guilty of gross negligence in or relative to the management or  
 control of such steamboat or other public conveyance, while being so  
 used for the common carriage of persons, shall be punished by a fine of  
 not more than five thousand dollars or by imprisonment in jail for not  
 more than two and one half years.

**265:31. Repealed, 1962, 285, Sec. 2**

**265:32. Glass; throwing in public streets and beaches; penalty**

Section 32. Whoever throws or drops glass on a public way, or on or  
 near a bathing beach, or on a public way, sidewalk or reservation in the  
 immediate neighborhood of a bathing beach, shall be punished by a fine  
 of not more than one hundred dollars or by imprisonment for not more  
 than one month.  
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**265:33. Repealed, 1962, 285, Sec. 2**

**265:34. Tattooing body of person by other than qualified physician; punish-**

Section 34. Whoever, not being registered as a qualified physician un-  
 der section two of chapter one hundred and twelve, or corresponding  
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moves, carries away, interferes with or releases any animal shall, if such 5  
 injury, damage, trespass, removal, carrying away, interference or release 6  
 is malicious and wilful, be punished by imprisonment in the state prison 7  
 for not more than ten years or by a fine of not more than twenty-five 8  
 thousand dollars and imprisonment in a jail or house of correction for not 9  
 more than two and one-half years; or if such injury, damage, trespass, 10  
 removal, carrying away, interference or release is wilful but not mali- 11  
 cious, be punished by imprisonment in the state prison for not more than 12  
 five years or by a fine of not more than ten thousand dollars and impris- 13  
 onment in a jail or house of correction for not more than two and one- 14  
 half years.

**266:105. Stone walls or fences; unauthorized removal**

Section 105. Whoever wilfully and without right pulls down or re-  
 moves any portion of a stone wall or fence which is erected or maintained  
 for the purpose of enclosing land shall be punished by a fine of not more  
 than ten dollars. Natural resource officers and deputy natural resource  
 officers of the office of the secretary of the executive office of environ-  
 mental affairs, may arrest without a warrant any person found violating  
 this section.

**266:106. Ice ponds; injury**

Section 106. Whoever wilfully, intentionally and without right or li- 1  
 cense, cuts, injures, mars or otherwise damages or destroys ice upon wa- 2  
 ters from which ice is or may be taken as an article of merchandise, 3  
 whereby the taking thereof is hindered or the value thereof diminished 4  
 for that purpose, shall be punished by a fine of not more than one hun- 5  
 dred dollars. 6

**266:107. Bridge or canal; injury**

Section 107. Whoever wilfully, intentionally and without right breaks 1  
 down, injures, removes or destroys a public bridge, or a lock, culvert or 2  
 embankment of a canal, or wilfully, intentionally and without right makes 3  
 an aperture or breach in such embankment with intent to destroy or in- 4  
 jure the same, shall be punished by imprisonment in the state prison for 5  
 not more than five years or by a fine of not more than five hundred dol- 6  
 lars and imprisonment in jail for not more than two years. 7

**266:108. Vessel; destruction to injure or defraud owner or insurer; punish-  
 ment; restitution**

Section 108. Whoever casts away, burns, sinks or otherwise destroys 1  
 a ship or vessel, with intent to injure or defraud an owner thereof, or of 2  
 any property laden on board the same, or an insurer of such ship, vessel 3  
 or property, or of any part thereof, shall be punished by imprisonment in 4

0321-2100	For the Massachusetts correctional legal services committee.....	\$877,016
0321-2205	For the expenses of the social law library located in Suffolk county.....	\$1,506,704
	<i>Appeals Court.</i>	
0322-0100	For the appeals court, including the salaries, traveling allowances and expenses of the chief justice, recall judges and the associate justices.....	\$10,827,256
	<i>Trial Court.</i>	
0330-0101	For the salaries of the justices of the 7 departments of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfer of funds from this item to any other item of appropriation within 30 days of the transfer.....	\$49,836,452
0330-0300	For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreement, jury expenses, trial court law libraries, statewide telecommunications, private and municipal court rental and leases, operation of courthouse facilities, rental of county court facilities, witness fees, printing expenses, equipment maintenance and repairs, court interpreter program, insurance and chargeback costs, the Massachusetts sentencing commission, alternative dispute resolution services, permanency mediation services, court security and judicial training; provided, that 50 per cent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d) and 30(c)(8) shall be paid from this item; provided further, that notwithstanding section 9A of chapter 30, or any other general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any such veteran, who holds a trial court office or position in the service of the commonwealth not classified under chapter 31, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who: (1) has held the office or position for not less than 1 year; and (2) has 30 years of total creditable service to the commonwealth, as defined in chapter 32; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that the report shall include, but not be limited to, the number of cases in which the assessment was reduced or waived by a judge or clerk-magistrate within the courts; and provided further, that the report shall be submitted to the victim and witness assistance board on or before January 11, 2010.....	\$196,762,543
0330-3333	For the chief justice for administration and management which may expend for the operation of the trial court an amount not to exceed \$27,000,000 from fees charged and collected pursuant to section 3 of chapter 90C, chapter 185, section 22 of chapter 218 and sections 2, 4A, 4B, 4C, 39 and 40 of chapter 262 of the General Laws; provided, that a schedule detailing the full allotment of said \$27,000,000 shall be submitted to the house and senate committees on ways and means not later than February 1, 2010; provided further, that the first \$3,000,000 of revenue received from the fees shall be deposited in the General Fund and not retained; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the chief justice may incur expenses and the comptroller shall certify for payments amounts not to exceed the lower of one half of this authorization or the most recent revenue estimate, as reported in the state accounting system.....	\$27,000,000
0330-3334	For the chief justice for administration and management which may expend for the operation of the department an amount not to exceed \$29,000,000 from fees charged and collected under section 87A of chapter 276 of the General Laws; provided, that a schedule detailing the full allotment of said \$29,000,000 shall be submitted to the house and senate committees on ways and means not later than February 1, 2010.....	\$29,000,000

## EXAM

1. Briefly describe our three branches of government specifically explaining each branch's role in the creation and maintenance of and rule of law.

2. Briefly explain/define

- a) Acts and Resolves
- b) General Laws
- c) Effective Dates
- d) Ways and Means Committee
- e) Fiscal Year
- f) Chapter 29
- g) Adverse Report
- h) Emergency preamble
- i) Conference Committee
- j) Engrossed bill
- k) Enactment
- l) Veto override
- m) Outside section
- n) Line item
- o) Prior Appropriation continued
- p) Favorable report
- q) Second reading

3. Provide an overview, in as much detail as time allows, including steps and stages necessary to create or amend a law through the legislative process. Finally, explain the Governor's role in this process.

4. a) What is an initiative Petition?
- b) What is a referendum Petition?

5. Rep Quisenberry has asked you to begin the draft of a legislative proposal creating a new chapter of the general laws. The new chapter will be titled "Crimes Against The Environment". Don't worry about the contents of the new chapter because other staff members are drafting the various sections of the new chapter. You should draft the title and caption necessary to amend the general laws. This new chapter should be inserted after G. L. c. 266 (Crimes Against Property).

6. In 1962 the legislature repealed the provisions of the General Laws, (G. L. c. 265, § 31), which prohibited leaving a stage coach unattended when carrying passengers. Rep. Quisenberry would like you replace that section with one that prohibits leaving a cab unattended when it contains a passenger or passengers. He wants a fine of not more than five hundred dollars.



§ 31. Repealed, 1962, 285, Sec. 2

Historical and Statutory Notes

St.1962, c. 285, § 2, repealing this section, was approved March 26, 1962.

The repealed section, which related to penalties for leaving a stage coach carrying passengers unattended, was derived from:

St.1826, c. 140.  
R.S.1836, c. 51, § 4.  
G.S.1860, c. 160, § 36.  
P.S.1882, c. 202, § 35.  
R.L.1902, c. 207, § 31.

§ 32. Glass; throwing in public streets and beaches; penalty

Whoever throws or drops glass on a public way, or on or near a bathing beach, or on a public way, sidewalk or reservation in the immediate neighborhood of a bathing beach, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one month.

Amended by St.1975, c. 322.

Historical and Statutory Notes

St.1913, c. 214.  
St.1914, c. 76.

St.1975, c. 322, approved June 12, 1975, substituted "one hundred dollars" for "fifty dollars,".

Library References

Malicious Mischief §1, 12.  
Westlaw Topic No. 248.

C.I.S. Malicious or Criminal Mischief or Damage to Property §§ 2 to 3, 11.

Research References

Treatises and Practice Aids  
32 Mass. Prac. Series § 322, Assault and Battery.

§ 33. Repealed, 1962, 285, Sec. 2

Historical and Statutory Notes

St.1962, c. 285, § 2, repealing this section, was approved March 26, 1962.

The repealed section derived from St.1913, c. 256, established a fine for wearing protruding hat pins.

§ 34. Tattooing body of person by other than qualified physician; punishment

Whoever, not being registered as a qualified physician under section two of chapter one hundred and twelve, or corresponding provisions of earlier laws, marks the body of any person by means of tattooing, shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year, or both.

Added by St.1957, c. 76. Amended by St.1962, c. 214.