

SENATE No. 2457

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

SENATE, October 10, 2023.

The committee on the Judiciary, to whom was referred the petitions (accompanied by bill, Senate, No. 913) of William N. Brownsberger for legislation relative to archaic laws; (accompanied by bill, Senate, No. 951) of Sal N. DiDomenico for legislation relative to petit treason; (accompanied by bill, Senate, No. 1109) of Rebecca L. Rausch for legislation to repeal the criminalization of blasphemy; (accompanied by bill, House, No. 1469) of Kate Donaghue, Lindsay N. Sabadosa and Patrick Joseph Kearney relative to the repeal or reform of certain archaic laws on religion, piety, and morality; (accompanied by bill, House, No. 1640) of Jay D. Livingstone, Lindsay N. Sabadosa and others for legislation to repeal certain archaic laws and to establish a permanent law revision commission (including members of the General Court) to examine common laws and statutes; and (accompanied by bill, House, No. 1811) of Tommy Vitolo and Sal N. DiDomenico relative to petit treason, reports the accompanying bill (Senate, No. 2457).

For the committee,
James B. Eldridge

SENATE No. 2457

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to archaic laws.

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 3 of the General Laws, as appearing in the 2022 Official Edition, is
2 hereby amended by adding the following section:-

3 Section 76. (a) There shall be a permanent law revision commission to consist of: the
4 house and senate chairs of the joint committee on the judiciary or their designees, who shall
5 serve as co-chairs; the attorney general or a designee; 4 attorneys admitted to practice law in the
6 commonwealth, 1 of whom shall be appointed by the senate president, 1 of whom shall be
7 appointed by the speaker of the house of representatives, 1 of whom shall be appointed by the
8 senate minority leader and 1 of whom shall be appointed by the house minority leader; 1 person
9 appointed by the Massachusetts district attorneys association; 1 person appointed by the
10 committee for public counsel services; and 3 persons appointed by the governor, 1 of whom shall
11 be a retired judge, 1 of whom shall be a faculty member of an accredited law school in the
12 commonwealth and 1 of whom shall be a historian with expertise in the laws of the
13 Commonwealth.

14 (b) The counsel to the senate and the counsel to the house of representatives shall jointly
15 provide personnel necessary to coordinate the activities of the commission and assist the
16 commission in drafting legislative proposals, as requested.

17 (c) The appointed members of the commission shall serve staggered 4-year terms.
18 Vacancies in the membership of the commission shall be filled by the original appointing
19 authority for the balance of the unexpired term.

20 (d) The commission shall: (i) examine the common law and statutes of the
21 commonwealth and judicial decisions for the purpose of identifying defects and anachronisms in
22 the law and recommending needed reforms; (ii) receive and consider proposed changes in the
23 law recommended by the American Law Institute, the National Conference of Commissioners on
24 Uniform State Laws, any bar association and any other learned body; (iii) receive and consider
25 suggestions as to defects and anachronisms in the law from judges, justices, public officials,
26 lawyers and the public; (iv) recommend changes in the law that the commission considers
27 necessary to modify or eliminate antiquated and inequitable rules of law and to bring the law into
28 harmony with modern conditions; (v) recommend the express repeal of statutes repealed by
29 implication or held unconstitutional by a state or federal court; (vi) evaluate and make
30 recommendations on the consolidation of session laws into the general laws; and (vii) make
31 recommendations to improve the openness and accessibility of state laws, including the use of
32 open-source software tools.

33 (e) The commission shall meet not less than 4 times annually. At the close of each regular
34 session of the general court, the commission shall submit a report of its findings and
35 recommendations, including drafts of any proposed legislation, to the clerks of the house of

36 representatives and senate and the joint committee on the judiciary. The commission may also
37 submit other recommendations and legislative proposals to the joint committee on the judiciary.

38 SECTION 2. Section 20B of chapter 127, as so appearing, is hereby amended by striking
39 out, in line 41, the words “, 34 or 35”.

40 SECTION 3. Section 49 of said chapter 127, as so appearing, is hereby amended by
41 striking out, in line 11, the words “,34, or 35,”.

42 SECTION 4. Section 49B of said chapter 127, as so appearing, is hereby amended by
43 striking out, in lines 24 and 25, the words “, thirty-four, thirty-five”.

44 SECTION 5. Section 49C of said chapter 127, as so appearing, is hereby amended by
45 striking out, in lines 21 and 22, the words “, thirty-four, thirty-five,”.

46 SECTION 6. Section 143 of said chapter 127 is hereby repealed.

47 SECTION 7. Section 34 of chapter 272 of the General Laws is hereby repealed.

48 SECTION 8. Said chapter 272 of the General Laws, as appearing in the 2022 Official
49 Edition, is hereby further amended by striking out section 35 and inserting in place thereof the
50 following section:-

51 Section 35. Whoever commits a lewd and lascivious act with another person in public,
52 with the intent of public exposure or with reckless disregard of substantial risk of public
53 exposure, shall be punished by a fine of not more than \$200, by imprisonment in a jail or house
54 of correction for not more than 6 months or by both such fine and imprisonment.

55 SECTION 9. Section 53 of said chapter 272, as so appearing, is hereby amended by
56 striking out, in lines 1 to 2, inclusive, the words “Common night walkers, common street
57 walkers, both male and female, persons” and inserting in place thereof the following word:-
58 Persons.

59 SECTION 10. Section 62 of said chapter 272 is hereby repealed.

60 SECTION 11. Section 57 of chapter 276 of the General Laws, as appearing in the 2022
61 Official Edition, is hereby amended by striking out, in lines 123 and 124, the words “or section
62 thirty-four or thirty-five of chapter two hundred and seventy-two,”.

63 SECTION 12. Section 45 of chapter 277 of the General Laws is hereby repealed.

64 SECTION 13. Section 63 of said chapter 277, as appearing in the 2022 Official Edition,
65 is hereby amended by striking out, in line 29, the figures “, 34, 35”.

66 SECTION 14. Section 79 of said chapter 277, as so appearing, is hereby amended by
67 striking out, in lines 427 to 429, inclusive, the words “Sodomy, etc. (Under Chap. 272, Sec.
68 34.)—That A.B. did commit the abominable and detestable crime against nature with a (state the
69 person or beast)”.

70 SECTION 15. Said section 79 of said chapter 277, as so appearing, is hereby further
71 amended by striking out, in lines 444 to 445, inclusive, the words “Unnatural act. (Under Chap.
72 272, Sec. 35.)—That A.B. did commit an unnatural and lascivious act with one C.D”.

73 SECTION 16. The initial terms of the first members of the law revision commission shall
74 be staggered as follows: 1 attorney appointed by the speaker of the house of representatives, 1
75 attorney appointed by the senate president, 1 attorney appointed by the senate minority leader

76 and 1 attorney appointed by the house minority leader shall serve an initial term of 4 years; 3
77 persons appointed by the governor shall serve an initial term of 3 years; and 1 person appointed
78 by the Massachusetts district attorneys association and 1 person appointed by the committee for
79 public counsel services shall serve an initial term of 2 years.