HOUSE DOCKET, NO. 2828 FILED ON: 1/21/2011

HOUSE . . . . . No. 2270

The Commonwealth of Massachusetts

PRESENTED BY:

Benjamin Swan

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 adoption of the accompanying bill:

An Act to establish the Massachusetts Innocence Commission.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Benjamin Swan	*11th Hampden*
William N. Brownsberger	
Gloria L. Fox	*7th Suffolk*
Jason M. Lewis	*31st Middlesex*
George T. Ross	*2nd Bristol*
Byron Rushing	*9th Suffolk*

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HOUSE . . . . . No. 2270

By Mr. Swan of Springfield, a petition (accompanied by bill, House, No. 2270) of Benjamin Swan and others for the establishment of a Massachusetts Innocence Commission to analyze the circumstances of innocent persons being charged, prosecuted, convicted and incarcerated. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to establish the Massachusetts Innocence Commission.

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

The General Laws are hereby amended by inserting the following new chapter:

Chapter 258F – Massachusetts Innocence Commission

Section 1. There shall be established a commission, known as the Massachusetts Innocence Commission, which shall analyze the circumstances of innocent persons being charged, prosecuted, convicted and incarcerated; shall advise the legislature concerning the causes and factors associated with such wrongful convictions; shall consider and recommend reforms to investigative, prosecutorial, judicial and other processes; and shall propose remedial legislation with the goals of reducing the likelihood that innocent persons are convicted of crimes. The commission shall evaluate current practices and make appropriate recommendations in the following areas:

12 (a) post-conviction access to the evaluation of DNA and other forensic evidence;

13 (b) eyewitness identification procedures;

14 (c) videotaping custodial and other questioning of suspects and witnesses;

15 (d) use of informants', cooperating individuals', and inmates' testimony;

16 (e) timely and full compliance with the government's responsibility to make
17 exculpatory information
18 available to a defendant and his or her counsel;

19 (f) law enforcement training and education programming;

20 (g) independence, impartiality, and scientific reliability of forensic laboratory
21 operations;

22 (h) oversight and disciplinary structures for evaluating allegations of police,
23 prosecutorial, defense and
24 judicial misconduct in criminal proceedings;

25 (i) payment of counsel for the commonwealth and the defense, for investigative
26 services, and other trial
27 costs; and

28 (j) any other factors or areas which may be brought to the attention of the
29 commission which relate to the
30 general concern of the wrongful convictions of innocent persons.

31 Section 2. The members of the Massachusetts Innocence Commission shall consist of

32 (a) the Chief Counsel of the Committee for Public Counsel Services or his or her

33 designee;

34 (b) the Attorney General for the Commonwealth or his or her designee;

35 (c) the colonel of the Massachusetts state police or his or her designee;

36 (d) the president of the Massachusetts Association of Defense Lawyers or his or

37 designee, who shall have,

38 at a minimum, twenty years of trial and/or appellate experience in criminal

39 defense;

40 (e) two jail or house of correction or department of correction staff members who act

41 as counselors,

42 correctional caseworkers, or chaplains, dealing with individual prisoners,

43 appointed by the commissioner

44 of correction;

45 (f) the president of the Massachusetts Chiefs of Police Association or his or her

46 designee;

47 (g) a District Attorney designated by the president of the Massachusetts Association

48 of District Attorneys;

49 (h) a forensic scientist experienced in the management and oversight of laboratory
50 operations;

51 (i) a retired justice of the Superior court department or the appeals court or the
52 supreme judicial court,

53 appointed by the supreme judicial court; and

54 (j) two members of community and/or civil rights organizations, appointed by the
55 Governor;

56 (k) another individual, to be appointed by the Governor.

57 Each member shall serve for a term of three years, or until his or her successor is
58 appointed.

59 Section 3. The commission shall be convened initially by the gubernatorial nominees, at
60 which time a chair shall be elected from among the members. The commission shall meet no
61 less than quarterly, and meetings shall be public meetings. The commission shall file an annual
62 report on or before December 15 with the office of the clerks of the house of representatives and
63 the senate and shall make that report and any recommendations for legislative or other
64 government action available to all members of the legislature, to the governor and the lieutenant
65 governor, to all other appropriate government offices, and to the public. The commission's
66 annual report and any recommendations shall be public records.