

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: | DATE ADDED: |
|--------------------------------|-----------------------|------------------|
| <i>Benjamin Swan</i> | <i>11th Hampden</i> | <i>1/21/2011</i> |
| <i>William N. Brownsberger</i> | | <i>2/3/2011</i> |
| <i>Gloria L. Fox</i> | <i>7th Suffolk</i> | <i>2/3/2011</i> |
| <i>Jason M. Lewis</i> | <i>31st Middlesex</i> | <i>2/3/2011</i> |
| <i>George T. Ross</i> | <i>2nd Bristol</i> | <i>2/3/2011</i> |
| <i>Byron Rushing</i> | <i>9th Suffolk</i> | <i>2/3/2011</i> |

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:

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

2 Chapter 258F – Massachusetts Innocence Commission

3

4 Section 1. There shall be established a commission, known as the Massachusetts

5 Innocence Commission, which shall analyze the circumstances of innocent persons being

6 charged, prosecuted, convicted and incarcerated; shall advise the legislature concerning the

7 causes and factors associated with such wrongful convictions; shall consider and recommend

8 reforms to investigative, prosecutorial, judicial and other processes; and shall propose remedial

9 legislation with the goals of reducing the likelihood that innocent persons are convicted of

10 crimes. The commission shall evaluate current practices and make appropriate recommendations

11 in the following areas:

- (a) post-conviction access to the evaluation of DNA and other forensic evidence;
- (b) eyewitness identification procedures;
- (c) videotaping custodial and other questioning of suspects and witnesses;
- (d) use of informants', cooperating individuals', and inmates' testimony;
- (e) timely and full compliance with the government's responsibility to make exculpatory information available to a defendant and his or her counsel;
- (f) law enforcement training and education programming;
- (g) independence, impartiality, and scientific reliability of forensic laboratory operations;
- (h) oversight and disciplinary structures for evaluating allegations of police, prosecutorial, defense and judicial misconduct in criminal proceedings;
- (i) payment of counsel for the commonwealth and the defense, for investigative services, and other trial costs; and
- (j) any other factors or areas which may be brought to the attention of the commission which relate to the 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;

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

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

appointed by the supreme judicial court; and

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

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

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

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