

**HOUSE . . . . . No. 1638**

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**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>1/11/2013</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>	<i>2/1/2013</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>	
<i>Ellen Story</i>	<i>3rd Hampshire</i>	
<i>Aaron Vega</i>	<i>5th Hampden</i>	
<i>Denise Andrews</i>	<i>2nd Franklin</i>	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	
<i>David M. Rogers</i>	<i>24th Middlesex</i>	

**HOUSE . . . . . No. 1638**

By Mr. Swan of Springfield, a petition (accompanied by bill, House, No. 1638) 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.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 2270 OF 2011-2012.]

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

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

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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:

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.