

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Heroux

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 Relative to the Massachusetts Innocence Commission.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>3/13/2015</i>

HOUSE No.

By Mr. Heroux of Attleboro, a petition (subject to Joint Rule 12) of Paul R. Heroux for legislation to authorize the establishment of the Massachusetts Innocence Commission. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act Relative to 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 Section 1. There shall be established a commission, known as the Massachusetts
2 Innocence Commission, which shall analyze the circumstances of innocent persons being
3 charged, prosecuted, convicted and incarcerated; shall make recommendations concerning claims
4 of actual innocence, that have been referred by defense attorneys or innocence programs, to the
5 Governor, Governor’s Council, the Parole/Commutation Board, the appropriate district attorney,
6 or other relevant government offices; shall advise district attorneys concerning the creation of
7 conviction integrity units, which will be designed to investigate claims of actual innocence; shall
8 advise the legislature concerning the causes and factors associated with such wrongful
9 convictions; shall consider and recommend reforms to investigative, prosecutorial, judicial and
10 other processes; and shall propose remedial legislation with the goals of reducing the likelihood
11 that innocent persons are convicted of crimes. The commission shall evaluate recommended
12 claims of actual innocence and current practices and make appropriate recommendations in the
13 following areas:

- 14 (a) post-conviction access to the evaluation of DNA and other forensic evidence;
- 15 (b) eyewitness identification procedures;
- 16 (c) videotaping custodial and other questioning of suspects and witnesses;
- 17 (d) use of informants', cooperating individuals', and inmates' testimony;
- 18 (e) timely and full compliance with the government's responsibility to make exculpatory
19 information
20 available to a defendant and his or her counsel;
- 21 (f) law enforcement training and education programming;
- 22 (g) independence, impartiality, and scientific reliability of forensic laboratory operations;
- 23 (h) oversight and disciplinary structures for evaluating allegations of police,
24 prosecutorial, defense and
25 judicial misconduct in criminal proceedings;
- 26 (i) payment of counsel for the commonwealth and the defense, for investigative services,
27 and other trial
28 costs; and
- 29 (j) advances in technology and techniques of investigative, forensic and pathological
30 sciences
- 31 (k) any other factors or areas which may be brought to the attention of the commission
32 which relate to the general concern of the wrongful convictions of innocent persons.

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

34 (a) the Chief Counsel of the Committee for Public Counsel Services or his or her
35 designee;

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

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

38 (d) the president of the Massachusetts Association of Defense Lawyers or his or designee,
39 who shall have, at a minimum, twenty years of trial and/or appellate experience in criminal
40 defense;

41 (e) two jail or house of correction or department of correction staff members who act as
42 counselors,

43 correctional caseworkers, or chaplains, dealing with individual prisoners, appointed by
44 the commissioner of correction;

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

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

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

50 (i) a retired justice of the Superior court department or the appeals court or the supreme
51 judicial court, appointed by the supreme judicial court; and

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

54 (k) the director of Committee for Public Counsel Services Innocence Program or his or
55 her designee.

56 (l) the chief of counsel of the New England Innocence Project or his or her designee

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

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

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