

SENATE No. 877

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 extending the statute of limitations for certain actions involving international human rights abuses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/26/2015</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>7/22/2015</i>

SENATE No. 877

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 877) of Mark C. Montigny, Michael O. Moore, Jason M. Lewis and James B. Eldridge for legislation to extend the statute of limitations for certain actions involving international human rights abuses. The Judiciary.

The Commonwealth of Massachusetts

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

An Act extending the statute of limitations for certain actions involving international human rights abuses.

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 260 of the General Laws is hereby amended by inserting after
2 section 36 the following sections:-

3 Section 37. The following actions shall be commenced within ten years:

4 (a)An action of tort for assault or battery where the conduct constituting the tort would
5 also constitute any of the following:

6 (1)An act of torture (as defined in section 2340 of Title 18 of the United States Code):

7 (2)An act of genocide (as defined in section 1091(a) of Title 18 of the United States
8 Code);

9 (3)A war crime (as defined in section 2441(c)-(d) of Title 18 of the United States Code);

10 (4) Attempted extrajudicial killing (as defined in section 3(a) of the Torture Victim
11 Protection Act of 1991, 28 U.S.C. § 1350 note);

12 (5) Crimes against humanity (as defined in section 38).

13 (b) An action for wrongful death, where the death arises out of conduct constituting any of
14 the acts listed in subsection (a) or would constitute an “extrajudicial killing” (as defined in
15 section 3(a) of the TVPA of 1991, 28 U.S.C. § 1350 note).

16 (c) An action for trafficking of persons for forced labor or services or sexual servitude
17 brought under section 4D.

18 (d) An action for the taking of property in violation of international law, in which that
19 property or any property exchanged for such property is present in the United States in
20 connection with a commercial activity carried on in the United States by the foreign state; or that
21 property or any property exchanged for such property is owned or operated by an agency or
22 instrumentality of a foreign state and that agency or instrumentality is engaged in a commercial
23 activity in the United States.

24 (e) An action seeking benefits under an insurance policy, where the insurance claim arises
25 out of any of the conduct listed in subsections (a) - (d).

26 (f) Any action brought under this section shall not be dismissed for failure to comply with
27 any previously applicable statute of limitations, pursuant to section 19.

28 Section 38. For purposes of section 37, the term “crimes against humanity” means any of
29 the following acts as part of a widespread or systematic attack directed against a civilian
30 population, with knowledge of the attack: murder; extermination; enslavement; forcible transfer

31 of population; arbitrary detention; rape, sexual slavery, enforced prostitution, forced pregnancy,
32 enforced sterilization, or any other form of sexual violence of comparable gravity; persecution on
33 political, race, national, ethnic, cultural, religious, or gender grounds; enforced disappearance of
34 persons; or other inhumane acts of a similar character intentionally causing great suffering or
35 serious bodily or mental injury.

36 Section 39. For an action where the applicable statute of limitations is provided by
37 section 37:

38 (a) Section 9 shall not apply.

39 (b) A prevailing plaintiff may be awarded reasonable attorney's fees and litigation costs
40 including, but not limited to, expert witness fees and expenses as part of the costs.

41 Section 40. Section 4D of said chapter 260, as so appearing, is hereby amended by
42 striking out subsections (b), (c), (d) and (e).

43 SECTION 2. This act shall be construed to apply retroactively, and shall apply regardless
44 of when any action or claim shall have accrued or been filed and regardless of whether it may
45 have lapsed or otherwise be barred by time under the law of the commonwealth.