

SENATE No. 908

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>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/31/2017</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/1/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/2/2017</i>

SENATE No. 908

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 908) of Mark C. Montigny, Bradley H. Jones, Jr., Richard J. Ross and Paul R. Heroux for legislation to extend the statute of limitations for certain actions involving international human rights abuses. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 877 OF 2015-2016.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

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. Section 4D of chapter 260, as appearing in the 2012 Official Edition, is
2 hereby amended by striking out, in lines 11 and 13, the figure “3” and inserting in place thereof
3 the following figure:- 10.

4 SECTION 2. Said chapter 260 is hereby further amended by inserting after section 36 the
5 following 2 sections:-

6 Section 37. (a) Except as otherwise provided, the following actions shall be commenced
7 within 10 years next after the cause of action accrues:

8 (i)an action of tort for assault or battery where the conduct constituting the tort shall
9 constitute: (A) an act of torture as defined in 18 U.S.C. § 2340(1); (B) an act of genocide as
10 provided in 18 U.S.C. § 1091; (C) a war crime as defined in 18 U.S.C. § 2441(c); or (D) an
11 attempted extrajudicial killing as defined in § 3(a) of the federal Torture Victim Protection Act
12 of 1991, Pub. L. 102–256; (E) crimes against humanity as defined in section 38 of said chapter
13 260;

14 (ii) an action for wrongful death where the death arises out of conduct listed in clause (i)
15 or an “extrajudicial killing” as defined in said § 3(a) of said Torture Victim Protection Act of
16 1991, Pub. L. 102–256;

17 (iii) an action for trafficking of persons for forced labor or services or sexual servitude
18 brought under section 4D;

19 (iv) an action for the taking of property in violation of international law where the
20 property or any property exchanged for the property is: (A) present in the United States in
21 connection with a commercial activity conducted in the United States by the foreign state; or (B)
22 (B) owned or operated by an agency or instrumentality of a foreign state and the agency or
23 instrumentality is engaged in a commercial activity in the United States; or

24 (v) an action seeking benefits under an insurance policy where the insurance claim arises
25 out of conduct listed in subsections (a) to (d), inclusive.

26 (b) Pursuant to section 19, an action brought under this section that fails to comply with a
27 previously applicable statute of limitations shall not be dismissed.

(c) All other statutory and equitable grounds for tolling shall apply to an action brought under this section and nothing in this section shall be construed to limit the applicability of other grounds of statutory or equitable tolling that may extend limitations periods for more than 10 years.

Section 38. “Crimes against humanity” shall mean any of the following acts as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack: murder; extermination; enslavement; forcible transfer of population; arbitrary detention; rape; sexual slavery; enforced prostitution; forced pregnancy; forced sterilization; persecution on political, racial, national, ethnic, cultural, religious, or gender grounds; enforced disappearance of persons; or other grave inhumane acts intentionally causing great suffering or serious physical or psychological injury.

Section 39. For an action where the applicable statute of limitations is provided in section 37, a prevailing plaintiff may be awarded reasonable attorneys’ fees and costs including, but not limited to, expert witness fees and expenses.

SECTION 3. This act shall apply retroactively.