HOUSE DOCKET, NO. 3531 FILED ON: 2/19/2021

HOUSE . . . . . No. 1567

The Commonwealth of Massachusetts

PRESENTED BY:

Brandy Fluker Oakley

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 enabling prosecutors to carry out their ethical obligations and address unjust convictions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Brandy Fluker Oakley	*12th Suffolk*	*2/19/2021*
Lindsay N. Sabadosa	*1st Hampshire*	*2/20/2021*
Carlos González	*10th Hampden*	*2/26/2021*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*3/4/2021*
Danillo A. Sena	*37th Middlesex*	*5/27/2021*
Mindy Domb	*3rd Hampshire*	*10/27/2021*

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By Ms. Fluker Oakley of Boston, a petition (accompanied by bill, House, No. 1567) of Brandy Fluker Oakley and others relative to providing for the vacating of certain criminal convictions. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act enabling prosecutors to carry out their ethical obligations and address unjust convictions.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 258E the following new chapter:-

CHAPTER 258F.

MECHANISM FOR PROSECUTORS TO ADDRESS AND REMEDY UNJUST CONVICTIONS.

Section 1. The commonwealth may file a motion in writing in the court with jurisdiction over the criminal case seeking a court order to:

(1) vacate the conviction;

(2) vacate the conviction and order a new trial; or

(3) reduce the duration of the sentence.

Section 2. The commonwealth's motion may be filed at any time after judgment in a criminal case, and the court with jurisdiction over the case may vacate the conviction or modify the duration of the sentence on the grounds that:

(1) clear and convincing evidence exists establishing that the defendant was convicted of an offense that the defendant did not commit;

(2) the conviction was based on an erroneous application of the law;

(3) there is newly discovered, credible, and material evidence that casts real doubt on the justice and integrity of the conviction;

(4) the act on which the conviction was based is no longer a crime; or

(5) the interests of justice and fairness justify vacating the conviction or reducing the duration of the sentence.

Section 3. A motion filed by the commonwealth under this chapter shall:

(1) be in writing;

(2) state in detail the grounds on which the motion is based;

(3) where applicable, describe the newly discovered evidence; and

(4) contain or be accompanied by a request for a hearing.

Section 4. The commonwealth shall notify the defendant in writing of the filing of a motion under this chapter. The defendant may file a response to the commonwealth's motion

within thirty days after receipt of the notice required under this section or within the period of time that the court orders.

Section 5. Before a hearing on a motion filed under this chapter, the victim or victim's representative shall be notified, as provided under the Massachusetts Victim Bill of Rights, M.G.L. c. 258B. A victim or victim's representative has the right to attend a hearing on a motion filed under this chapter.

Section 6. Except as provided in this section, the court shall hold a hearing on a filed motion if the motion satisfies the requirements of section 3.

The court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted.

Section 7. In ruling on a motion filed under this section, the court, as the court considers appropriate, may:

(1) vacate the conviction and discharge the defendant;

(2) vacate the conviction and order a new trial;

(3) reduce the duration of the sentence; or

(4) deny the motion.

The court shall state the reasons for a ruling in writing or on the record.

Section 8. In deciding whether to reduce the duration of a sentence, the court must determine both that:

(1) the individual is not a danger to the safety of any person or the community; and

(2) the interests of justice will be better served by a reduced sentence.

Section 9. The commonwealth, in a proceeding under this chapter, has the burden of proof.

Section 10. An appeal may be taken by either party from an order entered under this chapter.