HOUSE DOCKET, NO. 2566 FILED ON: 1/20/2011

# HOUSE . . . . . No. 2269

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 passage of the accompanying:

An Act to establish standards of conduct for district attorneys and provide for duties of the supreme judicial court and for penalties.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Benjamin Swan* | *11th Hampden* |

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# HOUSE . . . . . No. 2269

By Mr. Swan of Springfield, a petition (accompanied by bill, House, No. 2269) of Benjamin Swan for legislation to establish standards of conduct for district attorneys subject to the jurisdiction of the Disciplinary Board of the Supreme Judicial Court. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1749* OF 2009-2010.]

## The Commonwealth of Massachusetts

**In the Year Two Thousand Eleven**

An Act to establish standards of conduct for district attorneys and provide for duties of the supreme judicial court and for penalties.

*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. Notwithstanding any law to the contrary, this act is to establish ethical standards for district attorneys. (a) General Rule. District attorneys and assistant district attorneys, and employees of the district attorney in counties or districts shall be subject to Massachusetts laws and rules and local court rules governing attorneys, including the rules of professional conduct, where the attorney engages in the duties of district attorney to the same extent and in the same manner as other attorneys in that jurisdiction.

(b) Violations. No district attorney or assistant district attorney shall:

in the absence of probable cause seek the indictment of any person;

(2) fail promptly to release information that would exonerate a person under indictment;

(3) intentionally or knowingly misstate evidence;

(4) intentionally or knowingly alter evidence;

(5) intentionally mislead a court as to the guilt of any person;

14 (6) attempt to influence or color the testimony of a witness;

15 (7) act to frustrate or impede a defendant's right to discovery;

16 (8) offer or provide sexual activities to any government witness or potential
17 witness;

18 (9) leak or otherwise improperly disseminate information to any person during an
19 investigation;

20 knowingly misstate statutory or case law; or

21 (11) engage in conduct that discredits the office of the District Attorney.

22 (c) Penalties. Persons violating the provisions described in subsection (b) shall,
23 upon finding that a violation occurred, be subject to:

24 (1) Probation.

25 (2) Demotion.

26 (3) Dismissal.

27 (4) Referral of ethical charge to the bar.

28 (5) Loss of pension or other retirement benefits.

29 (6) Suspension from employment.

30 (7) Referral of the allegations, if appropriate, to a grand jury for possible criminal
31 prosecution.

32 SECTION 2. Complaints.

33 Written statement. A person who believes that a district attorney or employee of the
34 office of district attorney in a county or district has engaged in conduct in violation of Section 1,
35 may submit a written statement to the Disciplinary Board of the Supreme Judicial Court of
36 Massachusetts, in such form as the Supreme Judicial Court may require, describing the alleged
37 conduct

38 (b) Preliminary investigation. Not later than thirty days after receipt of a written
39 statement submitted under subsection (a), the Supreme Judicial Court Disciplinary Counsel shall
40 conduct a preliminary investigation and determine whether the allegations contained in such
41 statement warrant further investigation. (c) Investigation and penalty. If the Supreme
42 Judicial Court, upon receipt of findings by the Supreme Judicial Court Disciplinary Counsel,
43 determines that further investigation is warranted, the court shall within ninety days further

44 investigate the allegations and, if the court determines that a preponderance of evidence supports
45 the allegations, impose an appropriate penalty.

46 SECTION 3. Definitions. The following words and phrases when used in this act
47 shall have the meanings given to them in this section unless the context clearly indicates
48 otherwise:

49 "Employee." The term shall include, but not be limited to, an attorney,
50 investigator, special prosecutor or other employee of the office of district attorney in a county or
51 district as well as an attorney, investigator, accountant or a special prosecutor acting under the
52 authority of the office of district attorney.

53 SECTION 4. Effective Date. This act shall take effect ninety days after passage.