

HOUSE No. 02269

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 bill:

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:

Benjamin Swan

DISTRICT/ADDRESS:

11th Hampden

HOUSE No. 02269

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

1 SECTION 1. Notwithstanding any law to the contrary, this act is to establish ethical
2 standards for district attorneys. (a) General Rule. District attorneys and assistant district
3 attorneys, and employees of the district attorney in counties or districts shall be subject to
4 Massachusetts laws and rules and local court rules governing attorneys, including the rules of
5 professional conduct, where the attorney engages in the duties of district attorney to the same
6 extent and in the same manner as other attorneys in that jurisdiction.

7 (b) Violations. No district attorney or assistant district attorney shall:
8 in the absence of probable cause seek the indictment of any person;

- 9 (2) fail promptly to release information that would exonerate a person under indictment;
- 10 (3) intentionally or knowingly misstate evidence;
- 11 (4) intentionally or knowingly alter evidence;
- 12 (5) intentionally mislead a court as to the guilt of any person;
- 13 (6) attempt to influence or color the testimony of a witness;
- 14 (7) act to frustrate or impede a defendant's right to discovery;
- 15 (8) offer or provide sexual activities to any government witness or potential witness;
- 16 (9) leak or otherwise improperly disseminate information to any person during an
- 17 investigation;
- 18 knowingly misstate statutory or case law; or
- 19 (11) engage in conduct that discredits the office of the District Attorney.

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

- 22 (1) Probation.
- 23 (2) Demotion.
- 24 (3) Dismissal.
- 25 (4) Referral of ethical charge to the bar.
- 26 (5) Loss of pension or other retirement benefits.

27 (6) Suspension from employment.

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

30 SECTION 2. Complaints.

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

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

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

46 “Employee.” The term shall include, but not be limited to, an attorney, investigator,
47 special prosecutor or other employee of the office of district attorney in a county or district as

48 well as an attorney, investigator, accountant or a special prosecutor acting under the authority of
49 the office of district attorney.

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