

**SENATE . . . . . No. 1236**

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The Commonwealth of Massachusetts

PRESENTED BY:

***William N. Brownsberger***

*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 relative to the establishment of independent forensic sciences laboratories and the oversight and accreditation of such laboratories.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>

**SENATE . . . . . No. 1236**

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By Mr. Brownsberger, a petition (accompanied by bill, Senate, No. 1236) of William N. Brownsberger and David M. Rogers for legislation to establish and accredit independent forensic science laboratories. Public Safety and Homeland Security.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1112 OF 2013-2014.]

**The Commonwealth of Massachusetts**

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
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An Act relative to the establishment of independent forensic sciences laboratories and the oversight and accreditation of such laboratories.

*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 general or special law to the contrary all forensic  
2 sciences laboratories providing analysis of drugs, DNA, or any other evidence to be used in any  
3 delinquency adjudication or criminal trial or conviction shall be independent and shall not be  
4 influenced in any way by any law enforcement authority or agency, or prosecutorial or defense  
5 authority or entity.

6           Oversight of any and all such forensic sciences laboratories shall be conducted by the  
7 Massachusetts Forensic Sciences Audit, Oversight, and Advisory Commission as established by  
8 section 184A of chapter 6. The oversight of any and all such forensic sciences laboratories by  
9 the Massachusetts Forensic Sciences Advisory Commission shall be to audit the work of all such

10 laboratories to prevent the purposeful mishandling of evidence, encourage efforts to eliminate  
11 sources of human error in forensic examinations, ensure that the best forensic processes and  
12 procedures are utilized, and assure that proper accreditation is maintained.

13 All forensic sciences laboratories used for the examination and testing of evidence shall  
14 be accredited by an accrediting body that requires conformance to forensic specific requirements  
15 and which is a signatory to the International Laboratory Accreditation Cooperation (ILAC)  
16 Mutual Recognition Arrangement for Testing for the submission, identification, analysis, and  
17 storage of forensic analyses. All forensic sciences professionals employed by any such forensic  
18 sciences laboratories shall be required to obtain individual certification consistent with  
19 international and ISO standards. All such forensic science professionals shall have access to the  
20 certification process.

21 SECTION 2. There shall be the position of forensic sciences laboratory ombudsman in  
22 the executive office of public safety and security. The primary purpose of this position shall be  
23 to work with defense counsel, prosecutorial agencies, criminal justice system stakeholders, law  
24 enforcement, and the general public to ensure all processes, procedures, practices, and protocols  
25 at forensic sciences laboratories are consistent with state and federal law, best forensic law  
26 practices, and in the best interest of justice. The forensic sciences laboratory ombudsman shall  
27 mediate complaints that involve a dispute between any forensic sciences laboratory and defense  
28 counsel, prosecutorial agencies, law enforcement, or the general public. The forensic sciences  
29 laboratory ombudsman shall ensure that all criminal justice stakeholders and the general public  
30 are aware of the availability, responsibilities, and role of the forensic sciences laboratory  
31 ombudsman and shall regularly attend meetings of the Massachusetts district attorneys  
32 association, district and superior court judges, the committee for public counsel services, the

33 Massachusetts bar association, and other local and regional bar associations within the  
34 commonwealth.

35 SECTION 3. Section 184A of chapter 6 of the General Laws, as appearing in the 2010  
36 Official Edition, is hereby amended by striking said section and inserting in place thereof the  
37 following new section:-

38 Section 184A. Massachusetts Forensic Sciences Audit, Oversight, and Advisory  
39 Commission.

40 There shall be in the executive office of public safety and security a forensic sciences  
41 audit, oversight, and advisory commission, hereinafter called the commission, which shall  
42 review and audit the operations of forensic sciences laboratories within the commonwealth on a  
43 quarterly basis. Upon such review and audit of a forensic sciences laboratory the commission  
44 shall make recommendations to the director of such laboratory in order to improve the quality of  
45 work by such laboratory and ensure that all appropriate protocols and procedures are being  
46 followed. In addition, the commission shall make further recommendations, which shall include,  
47 but shall not be limited to the following:

48 a.) new scientific programs, protocols, and methods of testing;

49 b.) plans for the implementation of new programs, sustaining existing programs, and the  
50 elimination of programs that are no longer needed;

51 c.) protocols for testing and examination methods and guidelines for the presentation of  
52 results in court;

53 d.) qualification standards for the various forensic scientists of the laboratory; and

54 e.) when necessary, a review process to use when there is a request that a laboratory retest  
55 or reexamine evidence previously examined by the laboratory. Further, the commission shall  
56 conduct a bi-annual investigation and submit a report of the results of such investigation to the  
57 secretary of the executive office of public safety and security and the clerks of the senate and  
58 house of representatives on the volume of forensic services required by each county, including  
59 costs and length of time from submission for testing or procedures and return of results; the  
60 capacity of the commonwealth's forensic services and funding requirements; the accreditation of  
61 forensic facilities and training of personnel; and the need for additional facilities.

62 The commission is authorized to review analytical work, reports, and conclusions of  
63 scientists employed by a laboratory. Records reviewed by the commission shall remain  
64 confidential and continue to be considered records of a criminal investigation, which shall be  
65 reviewed only in a closed session meeting of the commission, and each member of the  
66 commission shall, prior to receiving any documents for review, sign a confidentiality agreement,  
67 under the pains and penalties of perjury, stipulating that such member shall maintain  
68 confidentiality of and not disclose the documents or the contents of such documents.

69 The commission shall consist of 16 members and shall include the undersecretary of  
70 public safety for forensic sciences and 15 persons appointed by the governor as follows: a  
71 forensic scientist or any other person with an advanced degree who has received substantial  
72 education, training, or experience in the subject of laboratory standards or quality assurance  
73 regulation and monitoring; the chief medical examiner of the commonwealth; a forensic scientist  
74 with an advanced degree who has received substantial education, training, or experience in the  
75 discipline of molecular biology; a forensic scientist with an advanced degree who has experience  
76 in the discipline of population genetics; a scientist with an advanced degree who has experience

77 in the discipline of forensic chemistry; a scientist with an advanced degree who has experience in  
78 the discipline of forensic biology; a forensic scientist or any other person with an advanced  
79 degree who has received substantial education, training, or experience in the discipline of trace  
80 evidence; a scientist with a doctoral degree who has experience in the discipline of forensic  
81 toxicology and is certified by the American Board of Forensic Toxicologists; a member of the  
82 International Association of Identification; a member of the Association of Firearms and  
83 Toolmark Examiners; a member of the International Association for Chemical Testing; a director  
84 of a private or federal forensic laboratory located in the commonwealth; a member of the  
85 American Society of Crime Laboratory Directors; a member of the Academy of Forensic  
86 Sciences; and a member of the American Statistical Association.

87           The chairman of the commission shall be elected from among the members appointed.  
88 Staff shall be provided by the executive office of public safety and security.

89           The 15 members initially appointed by the governor shall serve the following terms as  
90 determined by the governor: five members shall serve a term of two years; five members shall  
91 serve a term of three years; and five members shall serve a term of four years. Thereafter, all  
92 appointments shall be for a term of four years. A vacancy other than by expiration of term shall  
93 be filled by the governor for the unexpired term.

94           The commission shall meet quarterly and at such other times and places as it determines.  
95 Members shall not designate a proxy to vote in their absence.

96           Members of the commission shall be compensated for reasonable and necessary expenses  
97 incurred in the performance of their duties. Members of the commission who are public officers

98 or employees shall not receive any compensation for serving on the commission, but may be  
99 reimbursed for expenses incurred in the execution of their duties.