

The Commonwealth of Massachusetts

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PRELIMINARY REPORT

OF THE

SPECIAL COMMISSION INVESTIGATING  
THE PREVALENCE OF SEX CRIMES

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UNDER CHAPTER 14 OF THE RESOLVES OF 1947

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DECEMBER, 1947

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# The Commonwealth of Massachusetts

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## MEMBERSHIP.

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Appointed —

*By the President of the Senate.*

Sen. PHILIP K. ALLEN.

*By the Speaker of the House.*

Rep. ALLAN R. KINGSTON OF SOMERVILLE.

Rep. J. ALAN HODDER OF FRAMINGHAM.

Rep. ROBERT F. MURPHY OF MALDEN.

*By the Governor of the Commonwealth.*

Dr. A. WARREN STEARNS.

Dr. GEORGE GARDNER.

Mr. JOHN L. SULLIVAN.



## The Commonwealth of Massachusetts

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### PRELIMINARY REPORT OF THE SPECIAL COMMISSION INVESTIGATING THE PREVALENCE OF SEX CRIMES.

*To the Honorable Senate and House of Representatives.*

Under the provisions of chapter 14 of the Resolves of 1947, approved April 2, 1947, the General Court of Massachusetts authorized a special unpaid commission to make an investigation and study relative to the prevalence of sex crimes, with a view to determining what changes in, or additions to, the laws relating to sex crimes are necessary or advisable to provide better means of suppressing such crimes. The Commission was authorized to consider particularly the advisability of providing for the imposition of substantial mandatory sentences upon conviction of sex crimes, stricter supervision of sex criminals upon their release, and the advisability of segregating such criminals in separate buildings or quarters at the institution to which they are sentenced or committed.

Following numerous hearings and reports from prominent members of the state judiciary, penologists, law officers, physicians, psychiatrists and officials of the state and federal governments, the Commission became convinced that sex crimes could not be considered properly as a separate segment, wholly apart from the State's corrective system. Disposition of sex offenders, under the new psychopathic personality law or older statutes, is an integral part of the Commonwealth's penal and civil processes. Correctives designed to handle sex crimes alone would disrupt the entire legal system too greatly, as well as impose an almost prohibitive burden on the taxpayer.

The Commission found that recommendations for completely efficient and economical improvements of the laws relating to sex crimes could not be made without going beyond the limits imposed by its resolve.

With this report, however, the Commission is recommending certain preliminary changes in the existing machinery, based on expert testimony and the operation of similar statutes for other States as well as opinion on the need for revision of the present Massachusetts law. The Commission's recommendations for amendments to the existing law regulating the detection, care, treatment and rehabilitation of sexual deviates are attached. (See Appendix A.)

In its desire to comply with the instructions of the General Court, the Commission has achieved considerable progress, but the magnitude of the task has prevented completion of the investigation. The Commission, therefore, files this preliminary report and recommends that it be revived and continued with increased scope and authority to file a final report not later than March 15, 1948.

A draft of legislation to carry said recommendation into effect is submitted herewith. (See Appendix B.)

Respectfully submitted,

ALLAN ROY KINGSTON.  
JOHN L. SULLIVAN.  
A. WARREN STEARNS.  
PHILIP K. ALLEN.  
GEORGE E. GARDNER.  
ROBERT F. MURPHY.  
J. ALAN HODDER.

## PROPOSED LEGISLATION.

## APPENDIX A.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Forty-Eight.

AN ACT AMENDING THE LAW RELATIVE TO THE CARE,  
TREATMENT AND REHABILITATION OF SEXUAL PSYCHO-  
PATHS.

*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. Chapter 123A of the General Laws,  
2 as appearing in chapter 683 of the acts of 1947, is  
3 hereby amended by striking out sections 1 and 2  
4 and inserting in place thereof the following sections:  
5 *Section 1.* The words "sexual deviate" as used  
6 in this chapter shall have the following meaning:—  
7 Those persons who have committed an act or acts  
8 related to the expression of the sexual instinct which  
9 are a typical, compulsive or repetitive, are inconsistent  
10 with the stage of maturity indicated by the chrono-  
11 logical age of the person, and are associated with  
12 the infliction of injury, loss or pain on any person,  
13 creature or object, or which in the expression thereof

14 constitute a public nuisance and evidence a deficiency  
15 of moral sense or control.

16 *Section 2.* Except, as hereinafter provided, all  
17 laws hereinbefore or hereafter in force relating to  
18 insane persons, to persons alleged to be insane and  
19 to persons found to be insane, shall apply with like  
20 force and effect to sexual deviates, to persons alleged  
21 to be sexual deviates and to persons found to be  
22 sexual deviates, respectively; provided, that all  
23 references therein to probate courts, to judges of such  
24 courts and to proceedings therein which may be  
25 properly had in the superior court, shall be deemed to  
26 refer, respectively, to said superior court and to the  
27 chief justice and associate justices thereof; and pro-  
28 vided, further, that all references in said chapter 123A  
29 of the General Laws to psychopathic personality shall  
30 be deemed to refer to sexual deviate except as herein-  
31 after provided.

32 Any parent, guardian, or next of kin of any such  
33 alleged sexual deviate may file with the proper district  
34 attorney a petition seeking a determination of whether  
35 or not the child, ward or relative of the petitioner is  
36 a sexual deviate. Petitions so filed shall not be public  
37 records.

38 The district attorney for the district in which the  
39 alleged sexual deviate resided at the time of the act  
40 complained of, who, if he is satisfied good cause  
41 exists therefor, shall prepare a petition for commit-  
42 ment, setting forth sufficient allegations to enable  
43 the person complained of to be reasonably informed  
44 of the nature of the petition. Said petition shall be  
45 executed by one having knowledge of the facts, and  
46 shall be entered in the superior court for the county

47 in which the alleged sexual deviate resides, or was,  
48 at the time of the act complained of.

49 The court shall thereupon set the matter down for  
50 hearing and for examination of the person complained  
51 of, and an order of notice of such hearing and ex-  
52 amination shall be issued and served upon such per-  
53 son. The judge may at his discretion exclude the  
54 general public from attendance at such hearing. The  
55 person complained of may be represented by counsel  
56 and shall be notified as to his right to trial by jury.  
57 The person complained of shall have the right to have  
58 subpoenas issued out of the court, and shall be notified  
59 as to such right to compel the attendance of witnesses  
60 in his behalf, and all expenses of the service of sum-  
61 mons and of witnesses' fees shall be paid by the  
62 county.

63 The court shall appoint two duly qualified, licensed  
64 physicians, certified by the Department of Mental  
65 Health, to assist in the examination of the person  
66 complained of, and the fees of such physicians shall  
67 be paid by the county. The district attorney for the  
68 district, or such assistant as he may designate, may  
69 act for the petitioners. The proceedings had shall be  
70 reduced to writing and shall become part of the  
71 records of the court. Upon such hearing it shall be  
72 competent to introduce evidence of the commission  
73 by said person of any number of sex crimes, together  
74 with whatever punishments, if any, were inflicted.

1 SECTION 2. The first paragraph of section six of  
2 said chapter one hundred and twenty-three A, as so  
3 appearing, is hereby amended by striking out all after  
4 the word "crime" in line three.

## APPENDIX B.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Forty-Eight.

RESOLVE REVIVING AND CONTINUING THE SPECIAL COMMISSION TO INVESTIGATE AND STUDY SEX CRIMES.

1 *Resolved*, That the unpaid special commission, es-  
2 tablished by chapter fourteen of the resolves of nine-  
3 teen hundred and forty-seven, is hereby revived and  
4 continued for the purpose of continuing its investiga-  
5 tion and study relative to the prevalence of sex crimes,  
6 with a view to determining what changes in, or addi-  
7 tions to, the laws relating to crime are necessary or  
8 advisable to provide better means of suppressing sex  
9 crimes. Said commission, in the course of its investi-  
10 gation and study hereunder, shall consider particularly  
11 the advisability of providing for the imposition of sub-  
12 stantial mandatory sentences upon conviction of sex  
13 crimes and for a stricter supervision of sex criminals  
14 upon their release, and also the advisability of segre-  
15 gating such criminals in separate buildings or quarters  
16 at the institution to which they are sentenced or com-  
17 mitted. For the purposes of this resolve, said commis-  
18 sion may expend for clerical and other assistance and  
19 expenses the unexpended balance of the amounts ap-  
20 propriated by item 0201 of chapter six hundred and  
21 eighty-five, acts of nineteen hundred and forty-seven,

22 and said balance is hereby made available for the pay-  
23 ment of expenses incurred by said commission. Said  
24 commission shall be provided with quarters in the state  
25 house or elsewhere and may require by summons the  
26 attendance and testimony of witnesses and the pro-  
27 duction of books and papers. The commission shall  
28 report to the general court the results of its investiga-  
29 tion and study, and its recommendations, if any, to-  
30 gether with drafts of legislation necessary to carry its  
31 recommendations into effect, by filing a final report  
32 with the clerk of the house of representatives not  
33 later than March fifteenth in the current year.

