

HOUSE No. 1231

By Mr. Skerry of Medford (by request), petition of C. Gerald Lucey (mayor of Brockton) and another for legislation to regulate further the commitment and parole of defective delinquents. Public Welfare.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Three.

AN ACT FURTHER REGULATING THE COMMITMENT AND PAROLE OF DEFECTIVE DELINQUENTS.

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 123 of the General Laws is
2 hereby amended by striking out chapter 608 of the
3 acts of 1952 and inserting in place thereof the fol-
4 lowing section:—
5 *Section 113.* At any time after conviction, the
6 court, which may commit the offender to the state
7 prison, the reformatory for women, any jail or house
8 of correction, the Massachusetts reformatory, the
9 state farm, or the custody of the youth service board,
10 or a person under commitment to one of the aforesaid
11 institutions or institutions of the youth service board,
12 for an offence not punishable by death, may commit
13 the offender to the department for defective delin-
14 quents at the state farm; provided, however, that
15 the court, a district attorney or probation officer shall
16 file an application for such commitment, and shall

17 give notice to the defendant, his parents if he is a
18 minor, or his legal or natural guardian, who shall have
19 a right to be heard upon the proposed commitment,
20 and to the department of mental health, and said de-
21 partment shall cause such a person to be examined
22 by two experts in insanity with a view to determine
23 whether or not he is mentally defective, and shall file
24 a written report with the clerk of the court in which
25 the case is pending, and the report shall be accessible
26 to the court, the probation officer, the district attorney
27 and to the defendant and his attorney. If, on the
28 hearing, the defendant is found to be mentally de-
29 fective, the court shall make a record of such finding
30 and may commit the offender to the state farm as a
31 defective delinquent. The sentence shall be for an
32 indeterminate term having a minimum of one day
33 and a maximum of life.

34 The right of appeal from a commitment as a de-
35 fective delinquent shall be the same as provided for
36 in other criminal cases.

1 SECTION 2. Said chapter 123 is hereby further
2 amended by striking out sections 118 and 118A, as
3 most recently amended by chapter 684 of the acts of
4 1947, and inserting in place thereof the following two
5 sections:—

6 *Section 118.* Within one year after the commit-
7 ment of a person as a defective delinquent, such per-
8 son shall be examined by two psychiatrists appointed
9 by the commissioner of mental health, or, at any
10 time after the commitment of a person as a defective
11 delinquent, the medical director of the state farm or
12 medical officer of the institution wherein the defective
13 delinquent is in custody, may cause any such person

14 to be examined by two psychiatrists appointed by
15 the commissioner of mental health, and the report of
16 such examination shall be filed with the commissioner
17 of correction. Any such person under commitment as
18 a defective delinquent who is found by such an ex-
19 amination not to be mentally defective shall be taken
20 before the probate court by the commissioner of cor-
21 rection to determine whether the court will discharge
22 him from the defective delinquent status. The fees
23 of the psychiatrists or physicians issuing such certifi-
24 cates, or issuing certificates under section one hun-
25 dred and seventeen A, or conducting examinations of
26 defective delinquents under this section, shall be in
27 the amount and paid in the manner provided for like
28 service in sections three to one hundred and twelve,
29 inclusive.

30 *Section 118A.* The parole board in the department
31 of correction may parole inmates of the departments
32 for defective delinquents on such conditions as it
33 deems best, and may at any time during the parole
34 period recall to the institution any inmate paroled.
35 Within one year of the commitment of a person as a
36 defective delinquent, and at least once in every en-
37 suing three-year period, unless said person is sooner
38 released, said board shall examine such a person. In
39 all other respects the parole of the defective delinquent
40 may be regulated by the rules of the parole board.

1 SECTION 3. Sections one hundred and fourteen,
2 one hundred and fifteen and one hundred and six-
3 teen of chapter one hundred and twenty-three are
4 hereby stricken out.

