
By Mr. Rotondi, a petition (accompanied by bill, Senate, No. 1675) of Samuel Rotondi, John J. Droney and Peter W. Agnes, Jr., for legislation relative to waiver of trial by jury. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-two.

AN ACT RELATING TO WAIVER OF TRIAL BY JURY.

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 218 of the General Laws is hereby
2 amended by striking out section 26A, as added by St. 1978,
3 c. 478 § 188, and inserting in place thereof the following sec-
4 tion: —

5 *Section 26A.* Trial by jury of six; waiver.

6 Trial of criminal offenses in the Boston municipal court de-
7 partment and in the divisions of the district court department
8 shall be by a jury of six, unless the defendant, with the assent
9 of the prosecutor, files a written waiver and consent to be
10 tried by the court without a jury, subject to his right of ap-
11 peal therefrom for trial by a jury of six pursuant to section
12 twenty-seven A. Such waiver shall not be received unless the
13 defendant is represented by counsel or has filed a written
14 waiver of counsel. Such trials by jury in the first instance
15 shall be in those jury sessions designated by said section
16 twenty-seven A for the hearing of such appeals. All provisions
17 of law and rules of court relative to the hearing and the trial
18 of such appeals shall apply also to jury trials in the first in-
19 stance.

1 SECTION 2. Chapter 263 of the General Laws is hereby
2 amended by striking out section 6, as amended by St. 1973,
3 c. 591, § 20, and inserting in place thereof the following sec-
4 tion: —

5 *Section 6.* Waiver of jury trial.

6 A person indicted for a crime shall not be convicted there-
7 of except by confessing his guilt in open court, by admitting

8 the truth of the charge against him by his plea or demurrer
9 or by the verdict of a jury accepted and recorded by the court,
10 or in any criminal case other than a capital case, by judgment
11 of the court rendered as hereinafter provided. Any defendant
12 in the superior court in a criminal case other than a capital
13 case, whether begun by indictment or upon complaint or any
14 defendant in the housing court of the county of Hampden in a
15 criminal case, may, if he shall so elect, and only with the as-
16 sent of the prosecutor, when called upon to plead, or later and
17 before a jury has been impanelled to try him upon such in-
18 dictment or complaint, waive his right to trial by jury by
19 signing a written waiver thereof and filing the same with the
20 clerk of the court, whereupon he shall be tried by the court in-
21 stead of by a jury, but not, however, unless all the defendants,
22 if there are two or more charged with offenses growing out
23 of the same single chain of circumstances or events whether
24 prosecuted under the same or different indictments or com-
25 plaints shall have exercised such election before a jury has
26 been impanelled to try any of the defendants; and in every
27 such case the court shall have jurisdiction to hear and try
28 such case and render judgment and sentence thereon.