HOUSE DOCKET, NO. 525 FILED ON: 1/11/2013

HOUSE . . . . . No. 1236

The Commonwealth of Massachusetts

PRESENTED BY:

Antonio F. D. Cabral

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:

An Act to protect children against sex offenders..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F. D. Cabral	*13th Bristol*
Bruce E. Tarr	*First Essex and Middlesex*
Robert M. Koczera	*11th Bristol*
Denise Andrews	*2nd Franklin*

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By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 1236) of Antonio F. D. Cabral and others for legislation to protect children against sex offenders. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *411* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act to protect children against sex offenders..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Section 178L of chapter 6 of the general laws, as appearing in the 2010 official edition, is hereby amended by striking section 1(a) and inserting in place thereof with the following:

Section 1(a). Not less than 180 days prior to the release or parole of a sex offender from custody or incarceration, the board shall notify the sex offender of his right to submit to the board documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to the public and his duty to register according to the provisions of section 178E. If the sex offender is a juvenile at the time of such notification, notification shall also be mailed to the sex offender's legal guardian and his most recent attorney of record. Such sex offender may submit such evidence to the board within 30 days of receiving such notice from the board. Upon a reasonable showing, the board may extend the time in which such sex offender may submit such documentary evidence by no more than 30 days. The board may extend the time which such sex offender may submit such documentary evidence after the 30 days, but only after additional reasonable showing and not more than 30 days at a time. Upon reviewing such evidence, the board shall notify the sex offender within 30 days of the board's recommended sex offender classification, his duty to register, if any, his right to petition the board to request an evidentiary hearing to challenge such classification and duty, his right to retain counsel to represent him at such hearing and his right to have counsel appointed for him if he is found to be indigent as determined by the board using the standards under chapter 211D; provided, however,

20 that such indigent offender may also apply for and the board may grant payment of fees for an
21 expert witness in any case where the board in its classification proceeding intends to rely on the
22 testimony or report of an expert witness prepared specifically for the purposes of the
23 classification proceeding. If the offender is found to be indigent as determined by the board
24 using the standards under chapter 211D, counsel shall be appointed within 20 days. Such sex
25 offender shall petition the board for such hearing within 20 days of receiving such notice. The
26 board shall conduct such hearing within 60 days from the latter of petition from the sex offender
27 or appointment of counsel. The failure timely to petition the board for such hearing shall result
28 in a waiver of such right and the registration requirements, if any, and the board's recommended
29 classification shall become final.

30 Section 2. Section 178L of chapter 6 of the general laws, as appearing in the 2010
31 official edition, is hereby amended by striking section 1(c) and inserting in place thereof the
32 following:

33 Section 1(c). In the case of any sex offender not in custody, upon receiving registration
34 data from the agency, the police department at which the sex offender registered, the sentencing
35 court or by any other means, the board shall promptly notify the sex offender of his right to
36 submit to the board documentary evidence relative to his risk of reoffense and the degree of
37 dangerousness posed to the public and his duty to register, if any, according to the provisions of
38 section 178E. If such sex offender is a juvenile at the time of such notification, notification shall
39 also be mailed to the sex offender's legal guardian and his most recent attorney of record. Such
40 sex offender may submit such evidence to the board within 30 days of receiving such notice from
41 the board. Upon a reasonable showing, the board may extend the time in which such sex
42 offender may submit such documentary evidence by no more than 30 days. The board may
43 extend the time which such sex offender may submit such documentary evidence after the 30
44 days, but only after additional reasonable showing and not more than 30 days at a time. Upon
45 reviewing such evidence, the board shall notify the sex offender within 30 days of the board's
46 recommended sex offender classification, his duty to register, if any, his right to petition the
47 board to request an evidentiary hearing to challenge such classification and duty, his right to
48 retain counsel to represent him at such hearing and his right to have counsel appointed for him if
49 he is found to be indigent as determined by the board using the standards under chapter 211D;
50 provided, however, that such indigent offender may also apply for and the board may grant
51 payment of fees for an expert witness in any case where the board in its classification proceeding
52 intends to rely on the testimony or report of an expert witness prepared specifically for the
53 purposes of the classification proceeding. If the offender is found to be indigent as determined
54 by the board using the standards under chapter 211D, counsel shall be appointed within 20 days.
55 Such sex offender shall petition the board for such hearing within 20 days of receiving such
56 notice. The board shall conduct such hearing within 60 days from the latter of petition from the
57 sex offender or appointment of counsel. The timely failure to petition the board for such hearing

58 shall result in a waiver of such right and the registration requirements, if any, and the board's
59 recommended classification shall become final.