

HOUSE No. 1239

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 relative to improving the administration and efficiency of the judicial system.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Antonio F. D. Cabral

13th Bristol

Patricia A. Haddad

5th Bristol

HOUSE No. 1239

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 1239) of Antonio F. D. Cabral and Patricia A. Haddad relative to the release of persons accused of certain crimes. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to improving the administration and efficiency of the judicial system.

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

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

3 SECTION 1. Section 58 of chapter 276, of the general laws as appearing in the 2010
4 official edition, is hereby amended in line 105 by adding a paragraph break after the words
5 “reasonably possible.”

6 Said section 58 is further amended in line 114 by striking the words “by telephone” and
7 inserting in place thereof the following words:-- by writing delivered in hand or by facsimile or
8 electronic transmission that same day

9 Said section 58 is further amended in lines 133 to 139 by striking the words “on the same
10 day the petition shall have been filed, unless the district court or detaining authority shall
11 determine that such appearance and hearing on the petition cannot practically take place before
12 the adjournment of the sitting of said superior court for that day and in which event, the
13 petitioner shall be caused to be brought before said court for such hearing during the morning of
14 the next business day of the sitting of said superior court.” and inserting in place thereof the
15 following words:--

16 on the third business day of the sitting of said superior court after the petition shall have
17 been filed, unless said superior or district court orders otherwise for good cause shown.

18 Said section 58 is further amended by striking the paragraph at lines 150 to 161 and
19 inserting in place thereof the following:--

20 The justice of the superior court shall review the order of the district court and the
21 reasons given by the district court. Unless the justice of the superior court determines that the

22 district court committed a clear error of law or fact, or set a clearly excessive bail, the justice
23 shall remand the prisoner in accordance with the terms of the process by which he was ordered
24 committed by the district court. If the justice of the superior court determines that the district
25 court committed a clear error of law or fact, or set a clearly excessive bail, the justice shall
26 consider the standards set forth in the first paragraph of this section and may order that the
27 petitioner be released on bail on his personal recognizance without surety, or, in his discretion,
28 make any other order of bail or recognizance. If the justice of the superior court finds the district
29 court made a clear error of law or fact, or set a clearly excessive bail, he shall put his decision
30 and the reasons for any reduction or increase in writing.

31 SECTION 2. Section 4 of Section 58A of Chapter 276, as so appearing, is hereby
32 amended in line 98 by deleting the words "held under arrest" and inserting thereof the words:--
33 charged with

34 SECTION 3. Section 1 of chapter 278 of the general laws, as so appearing, is hereby
35 amended by striking out section 1 and inserting in place thereof the following section: --

36 Section 1. The district attorney in each district shall, in the exercise of his sole
37 responsibility and discretion, determine what criminal cases are to be tried and prioritize the
38 order of those trials, notwithstanding any other statute or rule of court. At the beginning of each
39 monthly court session, the district attorney shall deposit with the clerk, for the inspection of
40 parties, a list of all such cases to be tried at that session. The cases shall be tried in the order of
41 such trial list, unless otherwise agreed by the parties or ordered by the court upon motion of a
42 party and for cause shown. Cases may be added to such list by agreement of the parties or if
43 ordered by the court upon motion of the district attorney or of the defendant.

44 No criminal case shall proceed to trial unless the district attorney so moves; the court
45 shall have no authority to order a case to trial over the objection of the district attorney or upon
46 his refusal to move for trial. No case may be dismissed because of the district attorney's failure
47 or refusal to move for trial. No case shall be dismissed on grounds of timeliness of prosecution
48 except upon a judicial finding that the Commonwealth has violated the defendant's right to a
49 speedy trial under the Sixth Amendment to the United State Constitution, art. XI of the
50 Declaration of Rights of the Massachusetts Constitution, or Rule 36 (b) of the Massachusetts
51 Rules of Criminal Procedure.