HOUSE DOCKET, NO. 354 FILED ON: 1/10/2013

HOUSE . . . . . No. 1538

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

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 establishing a regional lockup facility in Suffolk County.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Eugene L. O'Flaherty	*2nd Suffolk*
Kevin G. Honan	*17th Suffolk*
Carlo Basile	*1st Suffolk*
Michael F. Rush	*Norfolk and Suffolk*
John J. Lawn, Jr.	*10th Middlesex*

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By Mr. O'Flaherty of Chelsea, a petition (accompanied by bill, House, No. 1538) of Eugene L. O'Flaherty and others for legislation to establish a regional lockup facility in Suffolk County. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *2919* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act establishing a regional lockup facility in Suffolk County.

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 34 of chapter 40 of the General Laws, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

"Unless a member of a regional lockup facility, a city or town containing more than 5,000 inhabitants shall, and any other town may, maintain a secure and convenient lockup to which a person arrested without a warrant may be committed; and a magistrate may commit, for further examination, a prisoner charged with a bailable offense and not recognizing, to the lockup in the town where the prisoner was arrested, to any regional lockup of which that town is a member, or to the lockup in a town where the court is held, if he considers it safe and commodious and that expense may be saved thereby."

SECTION 2. Section 36B of said chapter 40 , as so appearing, is hereby amended by inserting after the word "town," in line 2, the following word:-

"regional."

SECTION 3. Said section 36B of said chapter 40 , as so appearing, is hereby further amended by inserting after the word "department," in line 3, the following words:-

"county sheriff."

16 SECTION 4. Notwithstanding sections 34 to 37A of chapter 40 of the General Laws, or
17 any other general or special law to the contrary, the sheriff of Suffolk county may establish a
18 regional lockup facility within the site of the Suffolk county jail and house of correction, or
19 elsewhere within the county of Suffolk, which shall be used only for the detention of persons
20 arrested upon probable cause or warrant or a person arrested under a civil process. There shall be
21 space made available for interviews and space assigned for use by the clerk/magistrates for bail
22 hearings. The lockup shall be established only if approved by a majority vote of the city or town
23 where the sheriff of Suffolk county decides to locate it. The regional lockup facility established
24 under this section shall have the same function and power as a lockup established under said
25 section 34 of said chapter 40.

26 A city or town of Suffolk county, a state or federal law enforcement agency may, subject
27 to the discretion of the sheriff of Suffolk county, become a member of the county regional
28 lockup system by executing with the consent of the appropriate governing body, a written
29 agreement with the sheriff of Suffolk county. The agreement shall be filed with the
30 corresponding city and town clerk and the secretary of state and shall set forth the details of the
31 agreement as to the transportation, booking, fees to be paid per prisoner, and an indemnification
32 agreement.

33 Member police officers who are transporting a prisoner to a regional lock-up facility
34 shall, during transport, have the full authority and jurisdiction of a police officer through any
35 city, town, or county. Member city or town police departments do not have to comply with
36 section thirty-six C of chapter 40. The requirements and duties set forth in sections 36A to 36G,
37 inclusive, of said chapter 40 shall pertain to the regional lockup facility and the sheriff's office,
38 except that all training provided for in section 36C of said chapter 40 shall be completed within 1
39 year of the establishment of the facility. The regional lock-up administrator and sheriffs of the
40 Suffolk county regional lockup facility shall have the same authority, jurisdiction and duty to
41 detain, book, hold and transport a pre-arraignment prisoner or any other prisoner to or from the
42 regional lockup as required under said chapter 40. Mitigation funds shall be made available to
43 the city or town where the sheriff of Suffolk county decides to locate it in an amount pursuant to
44 the specifics of a memorandum of understanding between the Suffolk County Sheriff's
45 Department and said city or town, prior to its establishment.

46 SECTION 5. Section 35 of Chapter 40 of the General Laws is hereby amended by
47 adding thereto the following paragraph:-

48 "Notwithstanding the foregoing paragraph, if there is a county regional lock-up facility,
49 the sheriff of Suffolk county shall be responsible for the appointment of the administrator of the
50 lock-up facility who shall serve for such term as the sheriff shall determine and who can be
51 terminated from such position with or without cause at the sole discretion of the sheriff.
52 Notwithstanding any general or special law or any collective bargaining agreement to the
53 contrary, the sheriff and/or administrator of the lockup facility shall have the discretion to staff

54 the facility with any current employee of the Suffolk County Sheriff's Department, including jail
55 and /or corrections officers of various ranks from either the Suffolk County Jail or House of
56 Correction, notwithstanding the present union affiliation of said employee. Written notice of
57 same shall be filed with the county commissioners and the clerk of each member city or town.
58 The administrator of the regional lock-up facility shall have all the powers and duties of a keeper
59 of the lock-up."

60 SECTION 6. The sheriff of Suffolk county shall be afforded all the protections of M.G.
61 L. c. 258 §9, as though the sheriff held office under the constitution within the meaning of this
62 statute.

63 SECTION 7. Pursuant to the specifics of any memorandum of understanding between
64 the Suffolk County Sheriff's Department and a member of the county regional lock-up system,
65 the sheriff or administrator of the lockup facility shall maintain the discretion to refuse to accept
66 arrestees when she or he determines that such arrestee would unduly disrupt the orderly running
67 of the facility.