HOUSE DOCKET, NO. 1082 FILED ON: 1/19/2011

HOUSE . . . . . No. 1637

The Commonwealth of Massachusetts

PRESENTED BY:

Kathi-Anne Reinstein

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 providing a bone marrow registry for firefighter candidates..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kathi-Anne Reinstein	*16th Suffolk*
Bruce J. Ayers	*1st Norfolk*

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By Ms. Reinstein of Revere, a petition (accompanied by bill, House, No. 1637) of Kathi-Anne Reinstein and Bruce J. Ayers relative to medical and physical fitness examinations for police officers and fire fighters. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *2575* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act providing a bone marrow registry for firefighter candidates..

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

Chapter 31: Section 61A. Police officer and firefighter health and physical fitness standards

Section 61A. The administrator, with the secretary of public safety and the commissioner of public health shall establish initial health and physical fitness standards which shall be applicable to all police officers and firefighters when they are appointed to permanent, temporary, intermittent, or reserve positions in cities and towns or other governmental units. Such standards shall be established by regulations promulgated by the administrator after consultation with representatives of police and firefighter unions, and the Massachusetts Municipal Association.

Notwithstanding the provisions of this paragraph, any municipality may adopt, subject to collective bargaining, stricter health and physical fitness standards. Such initial health and physical fitness standards shall be rationally related to the duties of such positions and shall have the purpose of minimizing health and safety risks to the public, fellow workers and the police officers and firefighters themselves.

No person appointed to a permanent, temporary or intermittent, or reserve police or firefighter position after November first, nineteen hundred and ninety-six shall perform the duties of such position until he shall have undergone initial medical and physical fitness

18 examinations and shall have met such initial standards. The appointing board or officer shall
19 provide initial medical and physical fitness examinations. If such person fails to pass an initial
20 medical or physical fitness examination, he shall be eligible to undergo a reexamination within
21 16 weeks of the date of the failure of the initial examination. If he fails to pass the reexamination,
22 his appointment shall be rescinded. No such person shall commence service or receive his
23 regular compensation until such person passes the health examination or reexamination.

24 The administrator shall provide all candidates undergoing the initial medical and physical
25 examination process, the opportunity to register their blood and/or bone marrow with the
26 National Bone Marrow Registry.

27 The administrator, shall establish in-service health and physical fitness standards which
28 shall be applicable to all police officers and firefighters in permanent, temporary, intermittent,
29 and reserve positions in cities, towns, fire departments and authorities appointed after November
30 1, 2012. Such standards shall be established by regulations promulgated by the administrator
31 after consultation with representatives of police and firefighters unions, and the Massachusetts
32 Municipal Association. Notwithstanding the provisions of this paragraph, any municipality may
33 adopt, subject to collective bargaining, stricter in-service health and physical fitness standards.
34 Such in-service health and physical fitness standards shall be rationally related to the duties of
35 such positions and shall have the purpose of minimizing health and safety risks to the public,
36 fellow workers, and the police officers and firefighters themselves. Such standards shall take into
37 account the age of the police officer or firefighter.

38 All police officers and firefighters in such positions shall undergo in-service medical and
39 physical fitness examinations at such time intervals as the administrator shall determine, but no
40 less frequently than once every four years. Any police officer or firefighter appointed to such a
41 position after November first, nineteen hundred and ninety-six shall be required to maintain his
42 health and physical fitness at a level which meets such in-service standards. If a police officer or
43 firefighter appointed to such a position after November first, nineteen hundred and ninety-six
44 fails to pass such an in-service examination, he shall be eligible to undergo a reexamination
45 within 16 weeks of the date of the in-service medical or physical fitness examination failed. If he
46 fails the reexamination, he shall be eligible to undergo a second reexamination within 16 weeks
47 of the date of the first reexamination. If he fails to pass the second reexamination, his appointing
48 authority shall be notified and his employment status shall be terminated, subject only to the
49 procedural requirements of the applicable collective bargaining agreement or section 41. The
50 sole substantive issue for determination by an arbitrator, administrative law judge, civil service
51 commissioner or personnel administrator pursuant to this paragraph, shall be whether conditions
52 beyond the control of the employee mitigate sufficiently against termination and warrant a
53 subsequent reexamination at a time determined by the arbitrator, administrative law judge, civil
54 service commissioner, or personnel administrator within one year of the decision. Reexamination
55 shall be the sole and exclusive remedy available to the arbitrator, administrative law judge, civil
56 service commissioner, or personnel administrator.

57 If the appointment of a police officer or firefighter is terminated or not renewed in
58 accordance with this section, he may apply for superannuation, ordinary disability, or accidental
59 disability retirement benefits as provided in chapter thirty-two. A police officer or firefighter
60 whose appointment is terminated or not renewed because of his failure to meet in-service health
61 or physical fitness standards shall not be presumed by virtue of such termination or nonrenewal
62 to be disabled for pension purposes.

63 The administrator shall establish procedures for the administration of such medical and
64 physical fitness examinations by cities and towns. Such examinations may be administered at the
65 police academy or at the firefighting academy in accordance with such procedures.

66 The provisions of this section shall apply to all police officers and firefighters in cities,
67 towns, districts, or other governmental units which have accepted the provisions of this section
68 and section sixty-one B.

69 The personnel administrator shall submit regulations promulgated pursuant to this section
70 to the clerks of the house of representatives and senate, who shall refer said regulations to the
71 appropriate standing committee of the general court. The committee shall transmit in writing to
72 the administrator its recommendations, if any, for modifications to said regulations. Within
73 fifteen days of receipt of any such recommendations, the administrator shall resubmit said
74 regulations to said committee together with any modifications made thereto. If the general court
75 takes no final action relative to said regulations within forty-five days of the date on which said
76 regulations are first referred to said committee, said regulations shall be filed with the state
77 secretary pursuant to the provisions of section five of chapter thirty A. No such regulations shall
78 take effect until filed with the state secretary in accordance with the provisions of this paragraph.