HOUSE DOCKET, NO. 543 FILED ON: 1/18/2011

HOUSE . . . . . No. 411

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*
Cheryl A. Coakley-Rivera	*10th Hampden*
Robert M. Koczera	*11th Bristol*
Stephen R. Canessa	*12th Bristol*
Denise Andrews	*2nd Franklin*
Jennifer E. Benson	*37th Middlesex*

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HOUSE . . . . . No. 411

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 411) 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. *1299* OF 2009-2010.]

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 XX. Section 178L of chapter 6 of the general laws, as appearing in the 2008 official edition, is hereby amended by replacing section 1(a) with the following:

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, that such indigent offender may also apply for and the board may grant payment of fees for an expert

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

29 Section XX. Section 178L of chapter 6 of the general laws, as appearing in the 2008
30 official edition, is hereby amended by replacing section 1(c) with the following:

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