HOUSE DOCKET, NO. 1852 FILED ON: 1/20/2011

HOUSE . . . . . No. 1291

The Commonwealth of Massachusetts

PRESENTED BY:

Brian S. Dempsey

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 adoption of the accompanying bill:

An Act relative to the trial list in superior court criminal cases..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Brian S. Dempsey	*3rd Essex*

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HOUSE . . . . . No. 1291

By Mr. Dempsey of Haverhill, a petition (accompanied by bill, House, No. 1291) of Brian S. Dempsey relative to the trial list in criminal cases. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *1340* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the trial list in superior court criminal cases..

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 1 of Chapter 278 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out section 1 and inserting in place thereof the following section: --

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

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