SENATE DOCKET, NO. 153 FILED ON: 1/11/2013

SENATE . . . . . No. 824

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

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 bail review.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	*Bristol and Norfolk*

SENATE DOCKET, NO. 153 FILED ON: 1/11/2013

SENATE . . . . . No. 824

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 824) of James E. Timilty for legislation relative to bail review. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *900* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to bail review.

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 58A of Chapter 276 is hereby amended by striking the final paragraph of sub-section (7), lines 193 to 204 inclusive as appearing in the 2010 official edition, and inserting in place thereof the following new paragraph:

The superior court shall hear the petition for review under section 58A as speedily as practicable and in any event within five business days of the filing of the petition. The justice of the superior court hearing the petition shall review the record below but shall take no new evidence. Where the petitioner has been detained pursuant to subsection (3) of section 58A, the justice of the superior court shall review the written findings of fact and written statement of the reasons for the detention that the District Court justice was required to make under subsection (4) of section 58A. Unless the justice of the superior court finds that the district court determination is based on a clear error of fact or a clearly erroneous application of the factors listed in subsection (5) of section 58A to the facts, the justice shall remand the petitioner in accordance with the terms of the process by which he was ordered committed by the district court. If the justice of the superior court determines that the district court determination is based on a clear error of fact or a clearly erroneous application of the factors listed in subsection (5) of section 58A to the facts, the justice shall make written findings describing the error or errors that underlie the finding of the district court, and the justice shall then conduct a new hearing pursuant to subsections (4) and (5) of section 58A. The new hearing shall be held as soon as

19 practicable, but in any event not more than three business days after the determination by the
20 superior court justice of error in the findings of the district court, unless the petitioner, or the
21 attorney for the commonwealth, seeks a continuance. Except for good cause, a continuance on
22 motion of the petitioner may not exceed seven days, and a continuance on motion of the attorney
23 for the commonwealth may not exceed three business days.