SENATE DOCKET, NO. 1698 FILED ON: 1/16/2015

SENATE . . . . . No. 1258

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 to restore community trust in Massachusetts law enforcement.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
James B. Eldridge	*Middlesex and Worcester*	
Byron Rushing	*9th Suffolk*	
Peter V. Kocot	*1st Hampshire*	
Jason M. Lewis	*Fifth Middlesex*	
Denise Provost	*27th Middlesex*	
Timothy J. Toomey, Jr.	*26th Middlesex*	
Michael J. Barrett	*Third Middlesex*	
Marjorie C. Decker	*25th Middlesex*	
Sal N. DiDomenico	*Middlesex and Suffolk*	
Tricia Farley-Bouvier	*3rd Berkshire*	
Linda Dorcena Forry	*First Suffolk*	
Cynthia S. Creem	*First Middlesex and Norfolk*	
Patricia D. Jehlen	*Second Middlesex*	
Marcos A. Devers	*16th Essex*	
Kenneth J. Donnelly	*Fourth Middlesex*	
Danielle W. Gregoire	*4th Middlesex*	
Mary S. Keefe	*15th Worcester*	
Gloria L. Fox	*7th Suffolk*	

Frank A. Moran	*17th Essex*	
Carmine L. Gentile	*13th Middlesex*	
Steven Ultrino	*33rd Middlesex*	
Benjamin Swan	*11th Hampden*	
David M. Rogers	*24th Middlesex*	
Anthony W. Petruccelli	*First Suffolk and Middlesex*	
Sonia Chang-Diaz	*Second Suffolk*	*3/11/2016*

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1258) of James B. Eldridge, Byron Rushing, Peter V. Kocot, Jason M. Lewis and other members of the General Court for legislation to restore community trust in Massachusetts law enforcement. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1135* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act to restore community trust in Massachusetts law enforcement.

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. Chapter 126 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after section 39 the following new section:

Section 40. Definitions

As used in sections 40 to 43, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings

"Civil immigration detainer" means a request, including one using federal form I-247, issued by a federal immigration officer authorized under Section 287.7 of Title 8 of the Code of Federal Regulations or by any other authorized federal immigration officer to a local law

9 enforcement official to, among other things, maintain custody of an individual once that
10 individual is released from local custody.

11 "Released from local custody" means that an individual may be released from the
12 custody of a Massachusetts law enforcement agency because any of the following conditions has
13 occurred:

14 (a) All criminal charges against the individual have been dropped or dismissed;

15 (b) The individual has been acquitted of all criminal charges filed against him or her;

16 (c) The individual has served the time required for his or her sentence;

17 (d) The individual has posted a bail or bond, or has been released on his or her own
18 recognizance;

19 (e) The individual has been referred to pre-trial diversion services;

20 (f) The individual has been sentenced to an alternative to incarceration, including a
21 rehabilitation facility;

22 (g) The individual is otherwise eligible for release under state or local law.

23 "Administrative warrant" means a warrant, notice to appear, removal order, or warrant of
24 deportation, issued by an agent of a federal agency charged with the enforcement of immigration
25 laws or the security of the borders, including Immigration and Customs Enforcement and
26 Customs and Border Protection. An administrative warrant is not one issued by a judicial officer.

27 "Citizenship or immigration status" means all matters regarding questions of citizenship
28 of the United States or any other country, the authority to reside in or otherwise be present in the

29 United States, the time or manner of a person's entry into the United States, or another civil
30 immigration matter enforced by the Department of Homeland Security or other federal agency
31 charged with the enforcement of civil immigration laws.

32 “ICE” means the United States Immigration and Customs Enforcement Agency, and
33 includes the former Immigration and Naturalization Service, Customs and Border Protection, and
34 any successor agency charged with the enforcement of civil immigration laws.

35 “Inmate” means anyone in the custody of a Massachusetts law enforcement agency as
36 defined under of this section, and does not include individuals in the custody of Immigration and
37 Customs Enforcement.

38 “Massachusetts law enforcement agency" means police departments of political
39 subdivisions of the Commonwealth, sheriffs’ departments, the Massachusetts State Police, the
40 Massachusetts Department of Corrections, the Massachusetts Probation Service, the Office of
41 Community Corrections, and the Massachusetts Trial Court Community Service Program,
42 college and university campus police, and any other entity in commonwealth (other than federal
43 agencies) that are charged with the enforcement of laws, the operation of jails or prisons, or the
44 custody of detained persons.

45 SECTION 2. Chapter 126 of the General Laws, as so appearing, is hereby amended by
46 inserting after section 40 the following new section:

47 Section 41. Standards for Responding to Immigration Detainers

48 (1) No officer or employee of a Massachusetts law enforcement agency may arrest or
49 detain an individual solely on the basis of a civil immigration detainer or an administrative
50 warrant.

51 (2) No officer or employee of a Massachusetts law enforcement agency may continue to
52 detain an individual solely on the basis of a civil immigration detainer or an administrative
53 warrant once that individual has been released from local custody.

54 (3) No inmate subject to a civil immigration detainer or administrative warrant shall be
55 denied bail solely on the basis of that detainer or administrative warrant.

56 (4) Massachusetts law enforcement agencies shall not allow ICE agents to use their
57 facilities for investigative interviews or other purposes, and shall not allow ICE agents access to
58 inmates either in person or via telephone or videoconference.

59 (5) If any inmate is subject to a civil immigration detainer or an administrative warrant,
60 the Massachusetts law enforcement agency having custody of the inmate shall provide him or her
61 with a copy of the civil immigration detainer or administrative warrant, and any other
62 documentation pertaining to his or her case that is presented to the Massachusetts law
63 enforcement agency by federal immigration authorities.

64 (6) No Massachusetts law enforcement agency shall provide or allow ICE access to
65 booking lists or information regarding inmates' incarceration status or release dates. Law
66 enforcement agencies shall not notify ICE about an inmate's release. Nothing in this section shall
67 limit the exchange of information regarding citizenship or immigration status as permitted by
68 federal law.

69 SECTION 3. Chapter 126 of the General Laws, as so appearing, is hereby amended by
70 inserting after section 41 the following new section:

71 Section 42. Transfers of custody

72 Law enforcement officials shall not transport inmates who are subject to a civil
73 immigration detainer or administrative warrant into ICE custody. Inmates subject to a civil
74 immigration detainer or administrative warrant may be transported to court hearings, community
75 or rehabilitative programs or to other Massachusetts facilities. Nothing in this section shall be
76 construed as limiting or changing the duties of law enforcement agencies regarding the
77 transportation of individuals who have been placed formally in federal immigration custody.
78 Nothing in this section shall be construed as limiting or changing the duties of Sheriffs in section
79 24 of chapter 37, except that ICE facilities or ICE custody shall not be considered non-
80 correctional for the purposes of subsection (c) of that section.

81 SECTION 4. Chapter 126 of the General Laws, as so appearing, is hereby amended by
82 inserting after section 42 the following new section:

83 Section 43. Data Collection

84 All law enforcement agencies shall retain copies of civil immigration requests and
85 administrative warrants received along with accompanying information, and record the following
86 for any inmates subject to either: race, gender, place of birth, date and time of arrest, arrest
87 charges, date and time of receipt of civil immigration detainer or administrative warrant; date
88 and time that the individual was taken into custody by federal immigration agents; immigration
89 or criminal history known or marked on the civil immigration detainer form; whether the civil

90 immigration detainer was accompanied by additional documentation regarding immigration
91 status or proceedings, and; whether a copy of the forms were provided to the inmate.

92 All law enforcement agencies that receive detainer requests shall report all information
93 collected pursuant to this section quarterly to the Civil Rights Division of the Attorney General's
94 Office. Such information, with the exception of criminal offender record information, as defined
95 in section 167 of chapter 6, shall be a public record, within the meaning of section 3 of chapter
96 66 and section 4, twenty-sixth or chapter 7.