

HOUSE No. 2155

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 adoption of the accompanying bill:

An Act relative to improving the bail review process.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>1/20/2011</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	<i>2/4/2011</i>
<i>Kevin Aguiar</i>	<i>7th Bristol</i>	<i>2/4/2011</i>
<i>Mark C. Montigny</i>		<i>2/4/2011</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>2/3/2011</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>	<i>2/1/2011</i>
<i>C. Samuel Sutter</i>	<i>Bristol County District Attorney</i>	

HOUSE No. 2155

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 2155) of Antonio F. D. Cabral and others relative to improving the bail review process. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to improving the bail review process.

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

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

3 SECTION 1. Section 58 of Chapter 276, as so appearing, is hereby amended in line 105
4 by adding a paragraph break after the words “reasonably possible.”

5 SECTION 2. Said section 58 is further amended in line 114 by striking the words “by
6 telephone” and inserting in place thereof the following words:-- by writing delivered in hand or
7 by facsimile or electronic transmission that same day

8 SECTION 3. Said section 58 is further amended in lines 133 to 139 by striking the words
9 “on the same day the petition shall have been filed, unless the district court or detaining authority
10 shall determine that such appearance and hearing on the petition cannot practically take place
11 before the adjournment of the sitting of said superior court for that day and in which event, the
12 petitioner shall be caused to be brought before said court for such hearing during the morning of

the next business day of the sitting of said superior court.” and inserting in place thereof the following words:--

on the third business day of the sitting of said superior court after the petition shall have been filed, unless said superior or district court orders otherwise for good cause shown.

SECTION 4. Said section 58 is further amended by striking the paragraph at lines 150 to 161 and inserting in place thereof the following:--

The justice of the superior court shall review the order of the district court and the reasons given by the district court. Unless the justice of the superior court determines that the district court committed a clear error of law or fact, or set a clearly excessive bail, the justice shall remand the prisoner 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 committed a clear error of law or fact, or set a clearly excessive bail, the justice shall consider the standards set forth in the first paragraph of this section and may order that the petitioner be released on bail on his personal recognizance without surety, or, in his discretion, make any other order of bail or recognizance. If the justice of the superior court finds the district court made a clear error of law or fact, or set a clearly excessive bail, he shall put his decision and the reasons for any reduction or increase in writing.

SECTION 5. Section 4 of Section 58A of Chapter 276, as so appearing, is hereby amended in line 96 by deleting the words “held under arrest” and inserting thereof the words:-- charged with