

HOUSE No. 2796

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 regarding dangerousness hearings.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-----------------------------|---|------------------|
| <i>Antonio F. D. Cabral</i> | <i>13th Bristol</i> | <i>1/21/2011</i> |
| <i>Mark C. Montigny</i> | | <i>2/3/2011</i> |
| <i>Kevin Aguiar</i> | <i>7th Bristol</i> | <i>2/4/2011</i> |
| <i>Robert M. Koczera</i> | <i>11th Bristol</i> | <i>2/4/2011</i> |
| <i>C. Samulel Sutter</i> | <i>Bristol County District Attorney</i> | |

HOUSE No. 2796

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 2796) of Antonio F. D. Cabral and others relative to dangerousness hearings for certain offenses involving physical force or abuse. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act regarding dangerousness hearings.

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

1 Said section 58A of Chapter 276 is further amended by striking the final paragraph of
2 sub-section (7) and inserting thereof the following:

3 The superior court shall hear the petition for review under section fifty-eight A as
4 speedily as practicable and in any event within five business days of the filing of the petition.

5 The justice of the superior court hearing the petition shall review the record below but shall take
6 no new evidence. Where the petitioner has been detained pursuant to subsection three of section

7 58A, the justice of the superior court shall review the written findings of fact and written

8 statement of the reasons for the detention that the District Court justice was required to make

9 under subsection four of section 58A. Unless the justice of the superior court finds that the

10 district court determination is based on a clear error of fact or a clearly erroneous application of

11 the factors listed in subsection five of section 58A to the facts, the justice shall remand the

12 petitioner in accordance with the terms of the process by which he was ordered committed by the

13 district court. If the justice of the superior court determines that the district court determination is

14 based on a clear error of fact or a clearly erroneous application of the factors listed in subsection
15 five of section 58A to the facts, the justice shall make written findings describing the error or
16 errors that underlie the finding of the district court, and the justice shall then conduct a new
17 hearing pursuant to subsections four and five of section 58A. The new hearing shall be held as
18 soon as practicable, but in any event not more than three business days after the determination by
19 the superior court justice of error in the findings of the district court, unless the petitioner, or the
20 attorney for the commonwealth, seeks a continuance. Except for good cause, a continuance on
21 motion of the petitioner may not exceed seven days, and a continuance on motion of the attorney
22 for the commonwealth may not exceed three business days.