

# HOUSE . . . . . No. 2919

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Eugene L. O'Flaherty*

*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 establishing a regional lockup facility in Suffolk County.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Eugene L. O'Flaherty</i>	<i>2nd Suffolk</i>	<i>1/21/2011</i>
<i>Carlos Henriquez</i>	<i>5th Suffolk</i>	<i>2/3/2011</i>

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By Mr. O'Flaherty of Chelsea, a petition (accompanied by bill, House, No. 2919) of Eugene L. O'Flaherty and Carlos Henriquez for legislation to allow the sheriff of Suffolk County to establish a regional lockup facility. Public Safety and Homeland Security.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act establishing a regional lockup facility in Suffolk County.

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

1           SECTION 1. Section 34 of chapter 40 of the General Laws, is hereby amended by  
2 striking out the first sentence and inserting in place thereof the following sentence:-

3           “Unless a member of a regional lockup facility, a city or town containing more than  
4 5,000 inhabitants shall, and any other town may, maintain a secure and convenient lockup to  
5 which a person arrested without a warrant may be committed; and a magistrate may commit, for  
6 further examination, a prisoner charged with a bailable offense and not recognizing, to the  
7 lockup in the town where the prisoner was arrested, to any regional lockup of which that town is  
8 a member, or to the lockup in a town where the court is held, if he considers it safe and  
9 commodious and that expense may be saved thereby.”

10           SECTION 2. Section 36B of said chapter 40 , as so appearing, is hereby amended by  
11 inserting after the word “town,” in line 2, the following word:-

12           “regional.”

SECTION 3. Said section 36B of said chapter 40 , as so appearing, is hereby further amended by inserting after the word “department,” in line 3, the following words:-

“county sheriff.”

SECTION 4. Notwithstanding sections 34 to 37A of chapter 40 of the General Laws, or any other general or special law to the contrary, the sheriff of Suffolk county may establish a regional lockup facility within the site of the Suffolk county jail and house of correction, or elsewhere within the county of Suffolk, which shall be used only for the detention of persons arrested upon probable cause or warrant or a person arrested under a civil process. There shall be space made available for interviews and space assigned for use by the clerk/magistrates for bail hearings. The lockup shall be established only if approved by a majority vote of the city or town where the sheriff of Suffolk county decides to locate it. The regional lockup facility established under this section shall have the same function and power as a lockup established under said section 34 of said chapter 40.

A city or town of Suffolk county, a state or federal law enforcement agency may, subject to the discretion of the sheriff of Suffolk county, become a member of the county regional lockup system by executing with the consent of the appropriate governing body, a written agreement with the sheriff of Suffolk county. The agreement shall be filed with the corresponding city and town clerk and the secretary of state and shall set forth the details of the agreement as to the transportation, booking, fees to be paid per prisoner, and an indemnification agreement.

Member police officers who are transporting a prisoner to a regional lock-up facility shall, during transport, have the full authority and jurisdiction of a police officer through any

city, town, or county. Member city or town police departments do not have to comply with section thirty-six C of chapter 40. The requirements and duties set forth in sections 36A to 36G, inclusive, of said chapter 40 shall pertain to the regional lockup facility and the sheriff's office, except that all training provided for in section 36C of said chapter 40 shall be completed within 1 year of the establishment of the facility. The regional lock-up administrator and sheriffs of the Suffolk county regional lockup facility shall have the same authority, jurisdiction and duty to detain, book, hold and transport a pre-arraignment prisoner or any other prisoner to or from the regional lockup as required under said chapter 40. Mitigation funds shall be made available to the city or town where the sheriff of Suffolk county decides to locate it in an amount pursuant to the specifics of a memorandum of understanding between the Suffolk County Sheriff's Department and said city or town, prior to its establishment.

SECTION 5. Section 35 of Chapter 40 of the General Laws is hereby amended by adding thereto the following paragraph:-

“Notwithstanding the foregoing paragraph, if there is a county regional lock-up facility, the sheriff of Suffolk county shall be responsible for the appointment of the administrator of the lock-up facility who shall serve for such term as the sheriff shall determine and who can be terminated from such position with or without cause at the sole discretion of the sheriff. Notwithstanding any general or special law or any collective bargaining agreement to the contrary, the sheriff and/or administrator of the lockup facility shall have the discretion to staff the facility with any current employee of the Suffolk County Sheriff's Department, including jail and /or corrections officers of various ranks from either the Suffolk County Jail or House of Correction, notwithstanding the present union affiliation of said employee. Written notice of same shall be filed with the county commissioners and the clerk of each member city or town.

58 The administrator of the regional lock-up facility shall have all the powers and duties of a keeper  
59 of the lock-up.”

60 SECTION 6. The sheriff of Suffolk county shall be afforded all the protections of M.G.  
61 L. c. 258 §9, as though the sheriff held office under the constitution within the meaning of this  
62 statute.

63 SECTION 7. Pursuant to the specifics of any memorandum of understanding between  
64 the Suffolk County Sheriff’s Department and a member of the county regional lock-up system,  
65 the sheriff or administrator of the lockup facility shall maintain the discretion to refuse to accept  
66 arrestees when she or he determines that such arrestee would unduly disrupt the orderly running  
67 of the facility.