

HOUSE No. 3358

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas J. Calter and Viriato Manuel deMacedo

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 the release of certain persons accused of certain offenses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	<i>1/20/2011</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>	<i>2/4/2011</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>	<i>2/3/2011</i>
<i>Bruce E. Tarr</i>		<i>1/28/2011</i>
<i>James E. Timilty</i>		<i>1/25/2011</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/3/2011</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>	<i>4/1/2011</i>

HOUSE No. 3358

By Messrs. Calter of Kingston and deMacedo of Plymouth, a petition (accompanied by bill, House, No. 3358) of Thomas J. Calter, Viriato Manuel deMacedo and others relative to the release of certain persons accused of offenses involving physical force or abuse. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the release of certain persons accused of certain offenses.

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. The second sentence of subsection (3) of section 58A of chapter 276, as
2 appearing in the 2008 Official Edition, is hereby amended by striking out the words “but in
3 absence of good cause, the person so held shall not be detained for a period exceeding ninety
4 days excluding any period of delay as defined in Massachusetts Rules of Criminal Procedure
5 36(b)(2).”

6 SECTION 2. The second paragraph of subsection (4) of said section 58A of said chapter
7 276, as appearing in the 2008 Official Edition, is hereby amended by inserting, after the fifth
8 sentence, the following two sentences:- Prior to calling an alleged victim or member of the
9 victim's family as a witness at said hearing, such person shall make a good faith proffer as to
10 why he reasonably believes that testimony from such witness will in fact support a conclusion
11 that there exist conditions of release that will reasonably assure the safety of any other person or
12 the community. Any purpose other than the purpose for which the hearing is being held

13 including, but not limited to, mere speculation or conjecture, shall not be a sufficient basis for
14 calling an alleged victim or member of the victim's family to testify.

15

16 SECTION 3. Said subsection (4) of said section 58A of said chapter 276, as so appearing,
17 is hereby further amended by striking out the last sentence and inserting in its place the following
18 sentence:- The hearing may be reopened before or after a determination by the judge, at any
19 time before trial, if the person or the commonwealth makes a good faith showing, and the judge
20 so finds, that either information exists that was not known at the time of the hearing, or there has
21 been a change of circumstances and that the proffered information or change of circumstances
22 has a material bearing on whether there are conditions of release that will reasonably assure the
23 safety of any other person and the community.