HOUSE DOCKET, NO. 2168 FILED ON: 1/17/2013

HOUSE . . . . . No. 1239

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 administration and efficiency of the judicial system.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Antonio F. D. Cabral	*13th Bristol*	*1/17/2013*
Patricia A. Haddad	*5th Bristol*	*1/17/2013*

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By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 1239) of Antonio F. D. Cabral and Patricia A. Haddad relative to the release of persons accused of certain crimes. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to improving the administration and efficiency of the judicial system.

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

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. Section 58 of chapter 276, of the general laws as appearing in the 2010 official edition, is hereby amended in line 105 by adding a paragraph break after the words "reasonably possible."

Said section 58 is further amended in line 114 by striking the words "by telephone" and inserting in place thereof the following words:-- by writing delivered in hand or by facsimile or electronic transmission that same day

Said section 58 is further amended in lines 133 to 139 by striking the words "on the same day the petition shall have been filed, unless the district court or detaining authority shall determine that such appearance and hearing on the petition cannot practically take place before the adjournment of the sitting of said superior court for that day and in which event, the 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.

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 2. Section 4 of Section 58A of Chapter 276, as so appearing, is hereby amended in line 98 by deleting the words “held under arrest” and inserting thereof the words:-- charged with

SECTION 3. Section 1 of chapter 278 of the general laws, as so appearing, is hereby amended by striking out section 1 and inserting in place thereof the following section: --

Section 1. The district attorney in each district shall, in the exercise of his sole responsibility and discretion, determine what criminal cases are to be tried and prioritize the order of those trials, notwithstanding any other statute or rule of court. At the beginning of each monthly court session, the district attorney shall deposit with the clerk, for the inspection of parties, a list of all such cases to be tried at that session. The cases shall be tried in the order of such trial list, unless otherwise agreed by the parties or ordered by the court upon motion of a party and for cause shown. Cases may be added to such list by agreement of the parties or if ordered by the court upon motion of the district attorney or of the defendant.

No criminal case shall proceed to trial unless the district attorney so moves; the court shall have no authority to order a case to trial over the objection of the district attorney or upon his refusal to move for trial. No case may be dismissed because of the district attorney's failure or refusal to move for trial. No case shall be dismissed on grounds of timeliness of prosecution except upon a judicial finding that the Commonwealth has violated the defendant’s right to a speedy trial under the Sixth Amendment to the United State Constitution, art. XI of the Declaration of Rights of the Massachusetts Constitution, or Rule 36 (b) of the Massachusetts Rules of Criminal Procedure.