

# SENATE . . . . . No. 824

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## The Commonwealth of Massachusetts

PRESENTED BY:

*James E. Timilty*

*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 bail review.

PETITION OF:

NAME:

*James E. Timilty*

DISTRICT/ADDRESS:

*Bristol and Norfolk*

# SENATE . . . . . No. 824

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By Mr. Timilty, a petition (accompanied by bill, Senate, No. 824) of James E. Timilty for legislation relative to bail review. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 900 OF 2011-2012.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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An Act relative to bail review.

*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 58A of Chapter 276 is hereby amended by striking the  
2 final paragraph of sub-section (7), lines 193 to 204 inclusive as appearing in the 2010 official  
3 edition, and inserting in place thereof the following new paragraph:

4                   The superior court shall hear the petition for review under section 58A as  
5 speedily as practicable and in any event within five business days of the filing of the petition.  
6 The justice of the superior court hearing the petition shall review the record below but shall take  
7 no new evidence. Where the petitioner has been detained pursuant to subsection (3) of section  
8 58A, the justice of the superior court shall review the written findings of fact and written  
9 statement of the reasons for the detention that the District Court justice was required to make  
10 under subsection (4) of section 58A. Unless the justice of the superior court finds that the district  
11 court determination is based on a clear error of fact or a clearly erroneous application of the  
12 factors listed in subsection (5) of section 58A to the facts, the justice shall remand the petitioner  
13 in accordance with the terms of the process by which he was ordered committed by the district  
14 court. If the justice of the superior court determines that the district court determination is based  
15 on a clear error of fact or a clearly erroneous application of the factors listed in subsection (5) of  
16 section 58A to the facts, the justice shall make written findings describing the error or errors that  
17 underlie the finding of the district court, and the justice shall then conduct a new hearing  
18 pursuant to subsections (4) and (5) of section 58A. The new hearing shall be held as soon as

19 practicable, but in any event not more than three business days after the determination by the  
20 superior court justice of error in the findings of the district court, unless the petitioner, or the  
21 attorney for the commonwealth, seeks a continuance. Except for good cause, a continuance on  
22 motion of the petitioner may not exceed seven days, and a continuance on motion of the attorney  
23 for the commonwealth may not exceed three business days.