

HOUSE No. 1363

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:
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>1/10/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/25/2019</i>

HOUSE No. 1363

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 1363) of Antonio F. D. Cabral, James K. Hawkins and José F. Tosado relative to the administration and efficiency of the judicial system. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

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:

1 SECTION 1. Section 58 of chapter 276, of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by—

3 (a) striking out, in lines 154-155, the words “by telephone” and inserting in place
4 thereof the following words:- “by writing delivered in hand or by facsimile or electronic
5 transmission that same day”;

6 (b) striking out, in lines 174-181, the words:-

7 “on the same day the petition shall have been filed, unless the district court or the
8 detaining authority shall determine that such appearance and hearing on the petition cannot
9 practically take place before the adjournment of the sitting of said superior court for that day and
10 in which event, the petitioner shall be caused to be brought before said court for such hearing
11 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”;

(c) striking out, in lines 192-203, inclusive, the seventh paragraph and inserting in place thereof the following paragraph:-

“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.”; and

(d) inserting after the words “reasonably possible”, line 146, a paragraph break.

SECTION 2. Subsection (4) of section 58A of chapter 276, as so appearing, is hereby amended by striking out, in line 106, the words “held under arrest for” and inserting in place thereof the following words:- “charged with”.

SECTION 3. Chapter 278 of the General Laws, as so appearing, is hereby amended by striking out section 1, as appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

“Section 1. The district attorney in each district shall, in the exercise of the district attorney’s 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.”.