

SENATE . . . . . No.

The Commonwealth of Massachusetts

PRESENTED BY:

*Bruce E. Tarr*

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 to enhance the authority of courts to protect public safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Peter J. Durant</i>	<i>Worcester and Hampshire</i>	
<i>Ryan C. Fattman</i>	<i>Worcester and Hampden</i>	
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	
<i>Hannah Kane</i>	<i>11th Worcester</i>	
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	
<i>Kelly W. Pease</i>	<i>4th Hampden</i>	<i>10/21/2024</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	
<i>Michael J. Soter</i>	<i>8th Worcester</i>	
<i>Steven George Xiarhos</i>	<i>5th Barnstable</i>	
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>	<i>10/21/2024</i>
<i>John J. Marsi</i>	<i>6th Worcester</i>	
<i>Marcus S. Vaughn</i>	<i>9th Norfolk</i>	
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>10/21/2024</i>

<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>10/21/2024</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>10/21/2024</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>10/21/2024</i>
<i>Norman J. Orrall</i>	<i>12th Bristol</i>	<i>10/21/2024</i>
<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>	<i>10/22/2024</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	<i>10/22/2024</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>	<i>10/22/2024</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>	<i>10/22/2024</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>10/22/2024</i>
<i>Alyson M. Sullivan-Almeida</i>	<i>7th Plymouth</i>	<i>10/22/2024</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>10/22/2024</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>10/22/2024</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>10/22/2024</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>10/23/2024</i>

**SENATE . . . . . No.**

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By Mr. Tarr, a petition (accompanied by bill) (subject to Joint Rule 12) of Bruce E. Tarr, Peter J. Durant, Ryan C. Fattman, Patrick M. O'Connor and other members of the General Court for legislation to enhance the authority of courts to protect public safety. The Judiciary.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

An Act to enhance the authority of courts to protect public safety.

*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. Chapter 276 of the General Laws is hereby amended by inserting after  
2 section 20R the following section:-

3 Section 20S. (a) Any employee of the Commonwealth considered a court officer pursuant  
4 to Chapter 221 Sections 69A, 70A, 71A of the General Laws, who has lawful custody of a  
5 person may, upon the direction of a judicial officer, and upon receipt of (1) a written request  
6 from United States Immigration and Customs Enforcement requesting detention of such person  
7 on the grounds that there is probable cause that such person is a removable alien and (2) an  
8 administrative warrant for arrest or warrant of removal/deportation, detain such person for a  
9 reasonable period of time after such person would otherwise be released from custody in order to  
10 transfer custody of such person to United States Immigration and Customs Enforcement,  
11 provided that the judicial officer has determined that there are specific facts indicating that the  
12 person to be detained poses a threat to public safety; and further provided that such person be

13 provided with a copy of such written request; and further provided that in no circumstances shall  
14 such detention exceed 12 hours.

15 (b) As used in subsection (a), “specific facts indicating that the person to be detained  
16 poses a threat to public safety” shall mean that, at a minimum, any of the following facts are true  
17 with respect to such person:

18 (1) the person has engaged in or is suspected of terrorism or espionage, or otherwise  
19 poses a danger to national security;

20 (2) the person has been convicted of an offense of which an element was active  
21 participation in a criminal street gang, as defined in 18 U.S.C. § 521(a);

22 (3) the person has been convicted of an offense classified as a felony, other than a state or  
23 local offense for which an essential element was the person’s immigration status;

24 (4) the person has been convicted of an aggravated felony, as defined under 8 U.S.C. §  
25 1101(a)(43); or

26 (5) the person has been convicted of a crime of (i) domestic violence; (ii) sexual abuse or  
27 exploitation; (iii) trafficking in persons in violation of sections 50 or 51 of chapter 265 or like  
28 violations of the law of another state, the United States or a military, territorial or Indian tribal  
29 authority; (iv) burglary; (v) unlawful possession or use of a firearm; (vi) drug distribution or  
30 trafficking; (vii) second or subsequent operating or driving under the influence; or (viii) any  
31 other offense for which the person has been sentenced to time in custody of 180 days or more.

32 (c) In making such determination under subsection (a), if the appropriate judicial officer  
33 does not honor the request from Immigrations and Custom Enforcement, the judicial officer shall

34 detail the reasons therefore in writing, and said determination shall be filed with the Clerk of the  
35 Court having jurisdiction over the location of the detention and maintained as a public record.  
36 Said determination shall not be subject to impoundment and may only be redacted to protect the  
37 names of minors and victims.

38 (d) This section shall not be construed to give rise to a private right of action and shall not  
39 be construed so as to make unlawful any arrest in this commonwealth which would otherwise be  
40 lawful.

41 SECTION 2. Chapter 276 of the General Laws is hereby amended by inserting at the end  
42 the following section: -

43 Section 104. In determining original bail, and any subsequent bail pursuant to sections  
44 20D, 20E, 20F, 29, 42, 42A, 56A, 57, 60, 61, 62, 63, 64 68, 70, 82, 82A, of Chapter 276 the  
45 Judicial Officer presiding over the status of the bail hearing of the individual shall consider the  
46 existence of an Immigrations and Customs Enforcement Detainer request from the United States  
47 Immigrations and Customs Enforcement Office. If a written request from United States  
48 Immigration and Customs Enforcement requesting detention of such person on the grounds that  
49 there is probable cause that such person is a removable alien and (2) an administrative warrant  
50 for arrest or warrant of removal/deportation exists then the Judicial Officer shall have grounds to  
51 withhold bail pending action on the request from Immigrations and Customs Enforcement.