HOUSE DOCKET, NO. 1949 FILED ON: 1/20/2011

HOUSE . . . . . No. 3281

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 a jury trial.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Thomas J. Calter	*12th Plymouth*
Viriato Manuel deMacedo	*1st Plymouth*
Shaunna O'Connell	*3rd Bristol*
Benjamin Swan	*11th Hampden*
Daniel K. Webster	*6th Plymouth*

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HOUSE . . . . . No. 3281

By Messrs. Calter of Kingston and deMacedo of Plymouth, a petition (accompanied by bill, House, No. 3281) of Thomas J. Calter, Viriato Manuel deMacedo and others relative to waivers of trial by jury. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An act relative to a jury trial.

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 55A of chapter 119 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 3 sentences:- Trial of a child complained of as a delinquent child or indicted as a youthful offender in a division of the juvenile court department shall be by a jury, unless the child files a written waiver and consent to be tried by the court without a jury. Such waiver shall not be effective over the objection of the commonwealth. Such waiver shall also not be received unless the child is represented by counsel or has filed, through his parent or guardian, a written waiver of counsel.

SECTION 2. Subsection (c) of section 56 of said chapter 119 of the General Laws, as so appearing, is hereby amended by inserting, after the word “shall” in line 19, the following words:- , in the absence of an objection from the commonwealth, .

12 SECTION 3. The first paragraph of section 26A of chapter 218 of the General Laws, as
13 so appearing, is hereby amended by striking out the first 2 sentences and inserting in place
14 thereof the following 3 sentences:- Trial of criminal offenses in the Boston municipal court
15 department and in the district court department shall be by a jury of six persons, unless the
16 defendant files a written waiver and consent to be tried by the court without a jury. Such waiver
17 shall not be effective over the objection of the commonwealth. Such waiver shall also not be
18 received unless the defendant is represented by counsel or has filed a written waiver of counsel.

19 SECTION 4. Section 6 of chapter 263 of the General Laws, as so appearing, is hereby
20 amended by inserting, after the second sentence, the following sentence:- No such waiver shall
21 be effective over the objection of the commonwealth.

22 SECTION 5. The third sentence of said section 6 of said chapter, as so appearing, is
23 hereby amended by striking out the words "If the court consents to the waiver, " and inserting in
24 place thereof the following words:- If the commonwealth does not object and the court consents
25 to the waiver, .

26 SECTION 6. Section 2 of chapter 278 of the General Laws, as so appearing, is hereby
27 amended by adding, after the word "law" in line 5, the following words:- and the commonwealth
28 does not object to the waiver of the jury .

29 SECTION 7. Section 11A of chapter 278 of the General Laws, as so appearing, is hereby
30 amended by striking out the fifth sentence and inserting in place thereof the following sentence:-
31 A defendant may waive trial by jury unless the commonwealth objects.