

**HOUSE . . . . . No. 01291**

---

The Commonwealth of Massachusetts

\_\_\_\_\_  
PRESENTED BY:

*Brian Dempsey*

\_\_\_\_\_

*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 passage of the accompanying bill:

An Act relative to the trial list in superior court criminal cases..

\_\_\_\_\_  
PETITION OF:

NAME:

*Brian Dempsey*

DISTRICT/ADDRESS:

*3rd Essex*

# HOUSE . . . . . No. 01291

By Mr. Brian Dempsey of Haverhill, petition (accompanied by bill, House, No. 01291) of Brian Dempsey relative to the trial list in criminal cases. Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ HOUSE  
□ , NO. 1340 OF 2009-2010.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
**In the Year Two Thousand Eleven**  
\_\_\_\_\_

An Act relative to the trial list in superior court criminal cases..

*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 1 of Chapter 278 of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by striking out section 1 and inserting in place thereof the following  
3 section: --  
4 Section 1. The district attorney in each district shall, in the exercise of his sole responsibility and  
5 discretion, determine what criminal cases are to be tried and prioritize the order of those trials,  
6 notwithstanding any other statute or rule of court. At the beginning of each monthly court  
7 session, the district attorney shall deposit with the clerk, for the inspection of parties, a list of all  
8 such cases to be tried at that session. The cases shall be tried in the order of such trial list, unless  
9 otherwise agreed by the parties or ordered by the court upon motion of a party and for cause

10 shown. Cases may be added to such list by agreement of the parties or if ordered by the court  
11 upon motion of the district attorney or of the defendant.

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