

HOUSE No. 02155

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 passage of the accompanying bill:

An Act relative to improving the bail review process.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>Kevin Aguiar</i>	<i>7th Bristol</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>David B. Sullivan</i>	<i>6th Bristol</i>
<i>C. Samuel Sutter</i>	<i>Bristol County District Attorney</i>

HOUSE No. 02155

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 2155) of Aguiar and others relative to improving the bail review process Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to improving the bail review process.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Be it enacted by the Senate and House of Representatives in General Court assembled, and by
2 the authority of the same, as follows:

3 SECTION 1. Section 58 of Chapter 276, as so appearing, is hereby amended in line 105 by
4 adding a paragraph break after the words “reasonably possible.”

5 SECTION 2. Said section 58 is further amended in line 114 by striking the words “by
6 telephone” and inserting in place thereof the following words:-- by writing delivered in hand or
7 by facsimile or electronic transmission that same day

8 SECTION 3. Said section 58 is further amended in lines 133 to 139 by striking the words “on
9 the same day the petition shall have been filed, unless the district court or detaining authority
10 shall determine that such appearance and hearing on the petition cannot practically take place
11 before the adjournment of the sitting of said superior court for that day and in which event, the

12 petitioner shall be caused to be brought before said court for such hearing during the morning of
13 the next business day of the sitting of said superior court.” and inserting in place thereof the
14 following words:--

15 on the third business day of the sitting of said superior court after the petition shall have been
16 filed, unless said superior or district court orders otherwise for good cause shown.

17 SECTION 4. Said section 58 is further amended by striking the paragraph at lines 150 to 161
18 and inserting in place thereof the following:--

19 The justice of the superior court shall review the order of the district court and the
20 reasons given by the district court. Unless the justice of the superior court determines that the
21 district court committed a clear error of law or fact, or set a clearly excessive bail, the justice
22 shall remand the prisoner in accordance with the terms of the process by which he was ordered
23 committed by the district court. If the justice of the superior court determines that the district
24 court committed a clear error of law or fact, or set a clearly excessive bail, the justice shall
25 consider the standards set forth in the first paragraph of this section and may order that the
26 petitioner be released on bail on his personal recognizance without surety, or, in his discretion,
27 make any other order of bail or recognizance. If the justice of the superior court finds the district
28 court made a clear error of law or fact, or set a clearly excessive bail, he shall put his decision
29 and the reasons for any reduction or increase in writing.

30 SECTION 5. Section 4 of Section 58A of Chapter 276, as so appearing, is hereby amended in
31 line 96 by deleting the words “held under arrest” and inserting thereof the words:-- charged with