

HOUSE No. 02796

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 regarding dangerousness hearings

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Kevin Aguiar</i>	<i>7th Bristol</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>
<i>C. Samulel Sutter</i>	<i>Bristol County District Attorney</i>

HOUSE No. 02796

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 2796) of Aguiar and others relative to dangerousness hearings for certain offenses involving physical force or abuse
Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act regarding dangerousness hearings

□.

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

1 Said section 58A of Chapter 276 is further amended by striking the final paragraph of sub-
2 section (7) and inserting thereof the following:

3 The superior court shall hear the petition for review under section fifty-eight A as speedily as
4 practicable and in any event within five business days of the filing of the petition. The justice of
5 the superior court hearing the petition shall review the record below but shall take no new
6 evidence. Where the petitioner has been detained pursuant to subsection three of section 58A, the
7 justice of the superior court shall review the written findings of fact and written statement of the
8 reasons for the detention that the District Court justice was required to make under subsection
9 four of section 58A. Unless the justice of the superior court finds that the district court
10 determination is based on a clear error of fact or a clearly erroneous application of the factors
11 listed in subsection five of section 58A to the facts, the justice shall remand the petitioner in

12 accordance with the terms of the process by which he was ordered committed by the district
13 court. If the justice of the superior court determines that the district court determination is based
14 on a clear error of fact or a clearly erroneous application of the factors listed in subsection five of
15 section 58A to the facts, the justice shall make written findings describing the error or errors that
16 underlie the finding of the district court, and the justice shall then conduct a new hearing
17 pursuant to subsections four and five of section 58A. The new hearing shall be held as soon as
18 practicable, but in any event not more than three business days after the determination by the
19 superior court justice of error in the findings of the district court, unless the petitioner, or the
20 attorney for the commonwealth, seeks a continuance. Except for good cause, a continuance on
21 motion of the petitioner may not exceed seven days, and a continuance on motion of the attorney
22 for the commonwealth may not exceed three business days.