

HOUSE No. 01637

The Commonwealth of Massachusetts

PRESENTED BY:

Kathi-Anne Reinstein

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 providing a bone marrow registry for firefighter candidates..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kathi-Anne Reinstein</i>	<i>16th Suffolk</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>

HOUSE No. 01637

By Ms. Kathi-Anne Reinstein of Revere, petition (accompanied by bill, House, No. 01637) of Bruce J. Ayers and Kathi-Anne Reinstein relative to medical and physical fitness examinations for police officers and fire fighters. Joint Committee on Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ HOUSE
□ , NO. 2575 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act providing a bone marrow registry for firefighter candidates..

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

1 Chapter 31: Section 61A. Police officer and firefighter health and physical fitness
2 standards
3 Section 61A. The administrator, with the secretary of public safety and the commissioner of
4 public health shall establish initial health and physical fitness standards which shall be applicable
5 to all police officers and firefighters when they are appointed to permanent, temporary,
6 intermittent, or reserve positions in cities and towns or other governmental units. Such standards
7 shall be established by regulations promulgated by the administrator after consultation with
8 representatives of police and firefighter unions, and the Massachusetts Municipal Association.

9 Notwithstanding the provisions of this paragraph, any municipality may adopt, subject to
10 collective bargaining, stricter health and physical fitness standards. Such initial health and
11 physical fitness standards shall be rationally related to the duties of such positions and shall have
12 the purpose of minimizing health and safety risks to the public, fellow workers and the police
13 officers and firefighters themselves.

14 No person appointed to a permanent, temporary or intermittent, or reserve police or firefighter
15 position after November first, nineteen hundred and ninety-six shall perform the duties of such
16 position until he shall have undergone initial medical and physical fitness examinations and shall
17 have met such initial standards. The appointing board or officer shall provide initial medical and
18 physical fitness examinations. If such person fails to pass an initial medical or physical fitness
19 examination, he shall be eligible to undergo a reexamination within 16 weeks of the date of the
20 failure of the initial examination. If he fails to pass the reexamination, his appointment shall be
21 rescinded. No such person shall commence service or receive his regular compensation until
22 such person passes the health examination or reexamination.

23 The administrator shall provide all candidates undergoing the initial medical and physical
24 examination process, the opportunity to register their blood and/or bone marrow with the
25 National Bone Marrow Registry.

26 The administrator, shall establish in-service health and physical fitness standards which shall be
27 applicable to all police officers and firefighters in permanent, temporary, intermittent, and
28 reserve positions in cities, towns, fire departments and authorities appointed after November 1,
29 2012. Such standards shall be established by regulations promulgated by the administrator after
30 consultation with representatives of police and firefighters unions, and the Massachusetts

31 Municipal Association. Notwithstanding the provisions of this paragraph, any municipality may
32 adopt, subject to collective bargaining, stricter in-service health and physical fitness standards.
33 Such in-service health and physical fitness standards shall be rationally related to the duties of
34 such positions and shall have the purpose of minimizing health and safety risks to the public,
35 fellow workers, and the police officers and firefighters themselves. Such standards shall take into
36 account the age of the police officer or firefighter.

37 All police officers and firefighters in such positions shall undergo in-service medical and
38 physical fitness examinations at such time intervals as the administrator shall determine, but no
39 less frequently than once every four years. Any police officer or firefighter appointed to such a
40 position after November first, nineteen hundred and ninety-six shall be required to maintain his
41 health and physical fitness at a level which meets such in-service standards. If a police officer or
42 firefighter appointed to such a position after November first, nineteen hundred and ninety-six
43 fails to pass such an in-service examination, he shall be eligible to undergo a reexamination
44 within 16 weeks of the date of the in-service medical or physical fitness examination failed. If he
45 fails the reexamination, he shall be eligible to undergo a second reexamination within 16 weeks
46 of the date of the first reexamination. If he fails to pass the second reexamination, his appointing
47 authority shall be notified and his employment status shall be terminated, subject only to the
48 procedural requirements of the applicable collective bargaining agreement or section 41. The
49 sole substantive issue for determination by an arbitrator, administrative law judge, civil service
50 commissioner or personnel administrator pursuant to this paragraph, shall be whether conditions
51 beyond the control of the employee mitigate sufficiently against termination and warrant a
52 subsequent reexamination at a time determined by the arbitrator, administrative law judge, civil
53 service commissioner, or personnel administrator within one year of the decision. Reexamination

54 shall be the sole and exclusive remedy available to the arbitrator, administrative law judge, civil
55 service commissioner, or personnel administrator.

56 If the appointment of a police officer or firefighter is terminated or not renewed in accordance
57 with this section, he may apply for superannuation, ordinary disability, or accidental disability
58 retirement benefits as provided in chapter thirty-two. A police officer or firefighter whose
59 appointment is terminated or not renewed because of his failure to meet in-service health or
60 physical fitness standards shall not be presumed by virtue of such termination or nonrenewal to
61 be disabled for pension purposes.

62 The administrator shall establish procedures for the administration of such medical and physical
63 fitness examinations by cities and towns. Such examinations may be administered at the police
64 academy or at the firefighting academy in accordance with such procedures.

65 The provisions of this section shall apply to all police officers and firefighters in cities, towns,
66 districts, or other governmental units which have accepted the provisions of this section and
67 section sixty-one B.

68 The personnel administrator shall submit regulations promulgated pursuant to this section to the
69 clerks of the house of representatives and senate, who shall refer said regulations to the
70 appropriate standing committee of the general court. The committee shall transmit in writing to
71 the administrator its recommendations, if any, for modifications to said regulations. Within
72 fifteen days of receipt of any such recommendations, the administrator shall resubmit said
73 regulations to said committee together with any modifications made thereto. If the general court
74 takes no final action relative to said regulations within forty-five days of the date on which said
75 regulations are first referred to said committee, said regulations shall be filed with the state

76 secretary pursuant to the provisions of section five of chapter thirty A. No such regulations shall
77 take effect until filed with the state secretary in accordance with the provisions of this paragraph.