

HOUSE No. 01734

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 the open meeting law.

PETITION OF:

NAME:

Antonio F. D. Cabral

DISTRICT/ADDRESS:

13th Bristol

HOUSE No. 01734

By Mr. Antonio F. D. Cabral of New Bedford, petition (accompanied by bill, House, No. 01734) of Antonio F. D. Cabral relative to the open meeting law.. Joint Committee on State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the open meeting law.

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 the
2 authority of the same, as follows:

3 SECTION 1: Section 18 of chapter 30A of the Massachusetts General Laws as appearing in the
4 2008 official edition and amended by chapter 28 of the acts of 2009 is hereby amended by
5 deleting the following:-

6 (d) Intentional Violation – Any act or omission by a public body, or any member thereof, in
7 knowing violation of the open meeting law.

8 SECTION 2: Section 23(c) of said chapter is hereby amended by deleting the following:-

9 Following a determination that a violation has occurred, the attorney general shall determine
10 whether the public body, 1 or more of the members, or both, are responsible and whether the
11 violation was intentional or unintentional.

12 And in subsection (c)(4), the following:

13 SECTION 3: Section 23(c)(7) of said chapter is hereby amended by deleting the following:-

14 (7) prescribe other appropriate action.

15 And replacing it with the following:-

16 (7) reprimanding a member or members of a public body, said reprimand to be a public record;

17 or

18 (8) prescribe other appropriate action.

19 SECTION 4: Section 23(f) of said chapter is hereby amended by inserting at the end:-

20 Such order may invalidate any action taken at any meeting at which any provision of this section
21 has been violated, provided that such complaint is filed within twenty-one days of the date when
22 such action is made public.

23 Any such order may also, when appropriate, require the records of any such meeting to be made
24 public, unless it shall have been determined by such justice that the maintenance of secrecy with
25 respect to such records is authorized. The remedy created hereby is not exclusive, but shall be in
26 addition to every other available remedy. Such order may also include reinstatement without loss
27 of compensation, seniority, tenure or other benefits for any employee discharged at a meeting or
28 hearing held in violation of the provisions of this section. In an action brought by three or more

29 registered voters, such order may also require the public body to reimburse said voters
30 reasonable attorney's fees and court costs.

31 Such order may also include a civil fine against the public body in an amount no greater than one
32 thousand dollars for each meeting held in violation of this section and/or a civil fine of not more
33 than two hundred dollars for each violation against any individual member of a public body who
34 has already been fined pursuant to this section or received a reprimand pursuant to section
35 23(c)(7). A fine shall not be imposed against any member of the public body who is recorded in
36 opposition to the act that is found to be in violation of the open meeting law. A penalty against
37 an individual member shall not be reimbursable with public funds.

38 SECTION 5: Section 23(g) of said chapter is hereby amended by adding after "body" the first
39 time it appears the following:-

40 It shall be a defense to the imposition of a penalty that the public body or any member thereof,
41 after full disclosure, acted in good faith compliance with the advice of the public body's legal
42 counsel.