

**HOUSE . . . . . No. 2575**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Kathi-Anne Reinstein**

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*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:
Kathi-Anne Reinstein	16th Suffolk
Christopher J. Donelan	2nd Franklin
Robert B. McCarthy	130 Bowdoin St. Suite 710 Boston, MA 02108

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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:*

## **Chapter 31: Section 61A. Police officer and firefighter health and physical fitness standards**

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

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

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27 pass the reexamination, his appointment shall be rescinded.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

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

34 The administrator, shall establish in-service health and physical fitness  
35 standards which shall be applicable to all police officers and firefighters  
36 in permanent, temporary, intermittent, and reserve positions in cities,  
37 towns, fire departments and authorities appointed after November 1,  
38 2010. Such standards shall be established by regulations promulgated by  
39 the administrator after consultation with representatives of police and  
40 firefighters unions, and the Massachusetts Municipal Association.  
41 Notwithstanding the provisions of this paragraph, any municipality may  
42 adopt, subject to collective bargaining, stricter in-service health and  
43 physical fitness standards. Such in-service health and physical fitness  
44 standards shall be rationally related to the duties of such positions and  
45 shall have the purpose of minimizing health and safety risks to the  
46 public, fellow workers, and the police officers and firefighters

47 themselves. Such standards shall take into account the age of the police  
48 officer or firefighter.

49 All police officers and firefighters in such positions shall undergo in-  
50 service medical and physical fitness examinations at such time intervals  
51 as the administrator shall determine, but no less frequently than once  
52 every four years. Any police officer or firefighter appointed to such a  
53 position after November first, nineteen hundred and ninety-six shall be  
54 required to maintain his health and physical fitness at a level which  
55 meets such in-service standards. If a police officer or firefighter  
56 appointed to such a position after November first, nineteen hundred and  
57 ninety-six fails to pass such an in-service examination, he shall be  
58 eligible to undergo a reexamination within 16 weeks of the date of the  
59 in-service medical or physical fitness examination failed. If he fails the  
60 reexamination, he shall be eligible to undergo a second reexamination  
61 within 16 weeks of the date of the first reexamination. If he fails to pass  
62 the second reexamination, his appointing authority shall be notified and  
63 his employment status shall be terminated, subject only to the procedural  
64 requirements of the applicable collective bargaining agreement or  
65 section 41. The sole substantive issue for determination by an arbitrator,  
66 administrative law judge, civil service commissioner or personnel  
67 administrator pursuant to this paragraph, shall be whether conditions  
68 beyond the control of the employee mitigate sufficiently against  
69 termination and warrant a subsequent reexamination at a time  
70 determined by the arbitrator, administrative law judge, civil service  
71 commissioner, or personnel administrator within one year of the  
72 decision. Reexamination shall be the sole and exclusive remedy  
73 available to the arbitrator, administrative law judge, civil service  
74 commissioner, or personnel administrator.

75 If the appointment of a police officer or firefighter is terminated or not

76 renewed in accordance with this section, he may apply for  
77 superannuation, ordinary disability, or accidental disability retirement  
78 benefits as provided in chapter thirty-two. A police officer or firefighter  
79 whose appointment is terminated or not renewed because of his failure  
80 to meet in-service health or physical fitness standards shall not be  
81 presumed by virtue of such termination or nonrenewal to be disabled for  
82 pension purposes.

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

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

90 The personnel administrator shall submit regulations promulgated  
91 pursuant to this section to the clerks of the house of representatives and  
92 senate, who shall refer said regulations to the appropriate standing  
93 committee of the general court. The committee shall transmit in writing  
94 to the administrator its recommendations, if any, for modifications to  
95 said regulations. Within fifteen days of receipt of any such  
96 recommendations, the administrator shall resubmit said regulations to  
97 said committee together with any modifications made thereto. If the  
98 general court takes no final action relative to said regulations within  
99 forty-five days of the date on which said regulations are first referred to  
100 said committee, said regulations shall be filed with the state secretary  
101 pursuant to the provisions of section five of chapter thirty A. No such  
102 regulations shall take effect until filed with the state secretary in  
103 accordance with the provisions of this paragraph.