

HOUSE No. 03358

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas J. Calter and

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 release of certain persons accused of certain offenses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>

HOUSE No. 03358

By Messrs. Calter of Kingston and deMacedo, a petition (accompanied by bill, House, No. 3358) of Chris Walsh, and others relative to the release of certain persons accused of offenses involving physical force or abuse. [The Judiciary].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the release of certain persons accused of certain offenses.

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

- 1 SECTION 1. The second sentence of subsection (3) of section 58A of chapter 276, as appearing
- 2 in the 2008 Official Edition, is hereby amended by striking out the words “but in absence of
- 3 good cause, the person so held shall not be detained for a period exceeding ninety days excluding
- 4 any period of delay as defined in Massachusetts Rules of Criminal Procedure 36(b)(2).”

- 5 SECTION 2. The second paragraph of subsection (4) of said section 58A of said chapter 276, as
- 6 appearing in the 2008 Official Edition, is hereby amended by inserting, after the fifth sentence,
- 7 the following two sentences:- Prior to calling an alleged victim or member of the victim's family
- 8 as a witness at said hearing, such person shall make a good faith proffer as to why he reasonably
- 9 believes that testimony from such witness will in fact support a conclusion that there exist
- 10 conditions of release that will reasonably assure the safety of any other person or the community.
- 11 Any purpose other than the purpose for which the hearing is being held including, but not limited

12 to, mere speculation or conjecture, shall not be a sufficient basis for calling an alleged victim or
13 member of the victim's family to testify.

14

15 SECTION 3. Said subsection (4) of said section 58A of said chapter 276, as so appearing, is
16 hereby further amended by striking out the last sentence and inserting in its place the following
17 sentence:- The hearing may be reopened before or after a determination by the judge, at any
18 time before trial, if the person or the commonwealth makes a good faith showing, and the judge
19 so finds, that either information exists that was not known at the time of the hearing, or there has
20 been a change of circumstances and that the proffered information or change of circumstances
21 has a material bearing on whether there are conditions of release that will reasonably assure the
22 safety of any other person and the community.