

SENATE No. 00899

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

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 improving the bail review process.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-----------------------------|------------------------------------|
| <i>James E. Timilty</i> | <i>Bristol and Norfolk</i> |
| <i>Marc R. Pacheco</i> | <i>First Plymouth and Bristol</i> |
| <i>Michael J. Rodrigues</i> | <i>First Bristol and Plymouth</i> |
| <i>Mark C. Montigny</i> | <i>Second Bristol and Plymouth</i> |
| <i>George Ross</i> | <i>2nd Bristol</i> |

SENATE No. 00899

By Mr. Timilty, petition (accompanied by bill, Senate, No. 899) of Ross, Montigny, Pacheco and other members of the General Court for legislation relative to improving the bail review and rendition process [Joint Committee on the Judiciary].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 1826 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to improving the bail review process.

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. Section 58 of Chapter 276, as so appearing, is hereby amended in line
2 105 by adding a paragraph break after the words “reasonably possible.”

3 Said section 58 is further amended in line 114 by striking the words “by telephone”
4 and inserting in place thereof the following words:-- by writing delivered in hand or by facsimile
5 or electronic transmission that same day

6 Said section 58 is further amended in lines 133 to 139 by striking the words “on the
7 same day the petition shall have been filed, unless the district court or detaining authority shall
8 determine that such appearance and hearing on the petition cannot practically take place before

9 the adjournment of the sitting of said superior court for that day and in which event, the
10 petitioner shall be caused to be brought before said court for such hearing during the morning of
11 the next business day of the sitting of said superior court.” and inserting in place thereof the
12 following words:-- on the third business day of the sitting of said superior court after the petition
13 shall have been filed, unless said superior or district court orders otherwise for good cause
14 shown.

15 Said section 58 is further amended by striking the paragraph at lines 150 to 161 and
16 inserting in place thereof the following:--

17 The justice of the superior court shall review the order of the district court and the
18 reasons given by the district court. Unless the justice of the superior court determines that the
19 district court committed a clear error of law or fact, or set a clearly excessive bail, the justice
20 shall remand the prisoner in accordance with the terms of the process by which he was ordered
21 committed by the district court. If the justice of the superior court determines that the district
22 court committed a clear error of law or fact, or set a clearly excessive bail, the justice shall
23 consider the standards set forth in the first paragraph of this section and may order that the
24 petitioner be released on bail on his personal recognizance without surety, or, in his discretion,
25 make any other order of bail or recognizance. If the justice of the superior court finds the district
26 court made a clear error of law or fact, or set a clearly excessive bail, he shall put his decision
27 and the reasons for any reduction or increase in writing.

28 SECTION 2. Section 4 of Section 58A of Chapter 276, as so appearing, is hereby
29 amended in line 96 by deleting the words “held under arrest” and inserting thereof the words:--
30 charged with