

HOUSE No. 728

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 adoption of the accompanying bill:

An Act relative to improving the administration and efficiency of the judicial system.

PETITION OF:

NAME:

Antonio F. D. Cabral

DISTRICT/ADDRESS:

13th Bristol

HOUSE No. 728

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 728) of Antonio F. D. Cabral relative to improving the administration and efficiency of the judicial system. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to improving the administration and efficiency of the judicial system.

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, of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by—

3 (a) striking out, in lines 154-155, the words “by telephone” and inserting in place
4 thereof the following words:- “by writing delivered in hand or by facsimile or electronic
5 transmission that same day”;

6 (b) striking out, in lines 174-181, the words:-

7 “on the same day the petition shall have been filed, unless the district court or the
8 detaining authority shall determine that such appearance and hearing on the petition cannot
9 practically take place before the adjournment of the sitting of said superior court for that day and
10 in which event, the petitioner shall be caused to be brought before said court for such hearing
11 during the morning of the next business day of the sitting of said superior court”

12 and inserting in place thereof the following words:-

13 “on the third business day of the sitting of said superior court after the petition shall have
14 been filed, unless said superior or district court orders otherwise for good cause shown”;

15 (c) striking out, in lines 192-203, inclusive, the seventh paragraph and inserting in
16 place thereof the following paragraph:-

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.”; and

28 (d) inserting after the words “reasonably possible”, line 146, a paragraph break.

29 SECTION 2. Subsection (4) of section 58A of chapter 276, as so appearing, is hereby
30 amended by striking out, in line 106, the words “held under arrest for” and inserting in place
31 thereof the following words:- “charged with”.

32 SECTION 3. Chapter 278 of the General Laws, as so appearing, is hereby amended by
33 striking out section 1, as appearing in the 2014 Official Edition, and inserting in place thereof the
34 following section:-

35 “Section 1. The district attorney in each district shall, in the exercise of the district
36 attorney’s sole responsibility and discretion, determine what criminal cases are to be tried and
37 prioritize the order of those trials, notwithstanding any other statute or rule of court. At the
38 beginning of each monthly court session, the district attorney shall deposit with the clerk, for the
39 inspection of parties, a list of all such cases to be tried at that session. The cases shall be tried in
40 the order of such trial list, unless otherwise agreed by the parties or ordered by the court upon
41 motion of a party and for cause shown. Cases may be added to such list by agreement of the
42 parties or if ordered by the court upon motion of the district attorney or of the defendant.

43 No criminal case shall proceed to trial unless the district attorney so moves; the court
44 shall have no authority to order a case to trial over the objection of the district attorney or upon
45 his refusal to move for trial. No case may be dismissed because of the district attorney's failure
46 or refusal to move for trial. No case shall be dismissed on grounds of timeliness of prosecution
47 except upon a judicial finding that the Commonwealth has violated the defendant’s right to a
48 speedy trial under the Sixth Amendment to the United State Constitution, art. XI of the
49 Declaration of Rights of the Massachusetts Constitution, or Rule 36 (b) of the Massachusetts
50 Rules of Criminal Procedure.”.