

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Kathi-Anne Reinstein

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

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:

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

3
4 Section 61A. The administrator, with the secretary of public safety and
5 the commissioner of public health shall establish initial health and
6 physical fitness standards which shall be applicable to all police officers
7 and firefighters when they are appointed to permanent, temporary,
8 intermittent, or reserve positions in cities and towns or other
9 governmental units. Such standards shall be established by regulations
10 promulgated by the administrator after consultation with representatives
11 of police and firefighter unions, and the Massachusetts Municipal
12 Association.

13 Notwithstanding the provisions of this paragraph, any municipality may
14 adopt, subject to collective bargaining, stricter health and physical
15 fitness standards. Such initial health and physical fitness standards shall
16 be rationally related to the duties of such positions and shall have the

17 purpose of minimizing health and safety risks to the public, fellow
18 workers and the police officers and firefighters themselves.

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28 pass the reexamination, his appointment shall be rescinded.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

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

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

45 standards shall be rationally related to the duties of such positions and
46 shall have the purpose of minimizing health and safety risks to the
47 public, fellow workers, and the police officers and firefighters
48 themselves. Such standards shall take into account the age of the police
49 officer or firefighter.

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

75 commissioner, or personnel administrator.

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

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

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

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

102 pursuant to the provisions of section five of chapter thirty A. No such
103 regulations shall take effect until filed with the state secretary in
104 accordance with the provisions of this paragraph.