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By Mr. Kaplan of Brookline, petition of John A. Daly that provision be made for optional requests for report to the appellate division in trials transferred by the Superior Court to the district courts. The Judiciary.

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**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Sixty-One.

AN ACT TO PROVIDE FOR OPTIONAL REQUESTS FOR A REPORT TO THE APPELLATE DIVISION OF THE DISTRICT COURT IN CASES TRIED IN A DISTRICT COURT AFTER TRANSFER FROM THE SUPERIOR COURT.

*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 102C of chapter 231 of the General Laws as amended  
2 by acts of 1960, chapter 303, is hereby further amended by strik-  
3 ing out the period after the words "superior court" in the twelfth  
4 line of the third paragraph and by adding the following: — "or  
5 may request a report to the appellate division; but if any other  
6 party claiming to be aggrieved shall request retransfer to the  
7 superior court, the case shall be retransferred notwithstanding  
8 the request for report by such other party, except that such  
9 retransfer shall not be made until the request for report shall  
10 have been disposed of.", so that the third paragraph shall read  
11 as follows: —

12 Such action shall, unless retransferred as hereinafter provided,  
13 be pending in the district court and shall be tried by a full-time  
14 justice of the district court or by a justice authorized for such  
15 service in accordance with section seventy-seven A of chapter  
16 two hundred and eighteen. The parties shall have the benefits  
17 of and be subject to procedural rules of such district courts rel-  
18 ative to interrogatories, specifications, amendments and all other  
19 procedural matters regulating cases pending in such district  
20 courts. The justice shall file a written decision or finding with  
21 the clerk who shall forthwith notify the parties or counsel of  
22 record. Any party to the action aggrieved by the finding or  
23 decision may as of right have the case retransferred for deter-

24 mination by the superior court or may request a report to  
25 the appellate division; but if any other party claiming  
26 to be aggrieved shall request retransfer to the superior  
27 court, the case shall be retransferred notwithstanding  
28 the request for report by such other party, except that  
29 such retransfer shall not be made until the request for  
30 report shall have been disposed of." The request for re-  
31 transfer shall be filed with the clerk of said district court within  
32 ten days after notice of the decision or finding. If either party  
33 neglects to appear at the time appointed for such trial, or at  
34 any adjournment thereof, without just cause, or if at any such  
35 time either party refuses to produce in good faith the testimony  
36 relied on by him, the justice may close the trial and order that  
37 judgment be entered for the adverse party and file a finding or  
38 decision to that effect, and if both so fail to appear he may order  
39 that the action be dismissed. Judgment shall be entered accord-  
40 ingly at the first judgment day after the expiration of ten days  
41 from the filing of such finding or decision or order of dismissal,  
42 unless said justice for cause shown otherwise orders.