

**HOUSE . . . . . No.**

---

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Theodore C. Speliotis**

*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 allowing police officers to take into protective custody minors who have consumed alcohol.

PETITION OF:

NAME:

Theodore C. Speliotis

DISTRICT/ADDRESS:

13th Essex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT ALLOWING POLICE OFFICERS TO TAKE INTO PROTECTIVE CUSTODY MINORS WHO HAVE CONSUMED ALCOHOL.

*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 8 of chapter 111B, as appearing in the 2006 Official Edition, is hereby  
2 amended by inserting, after line 68, the following new section:-

3 Any person under the age of 21 who has consumed alcohol may be assisted by a police officer  
4 with or without his consent to his residence, to a facility or to a police station. To determine for  
5 purposes of this chapter only, whether or not such person has consumed alcohol, the police  
6 officer may request the person to submit to reasonable tests of coordination, coherency of  
7 speech, and breath.

8 Any person assisted by a police officer to a police station shall have the right, and be informed in  
9 writing of said right, to request and be administered a breathalyzer test. Any person who is  
10 administered a breathalyzer test shall be presumed to have consumed alcohol if evidence from  
11 said test indicates that the percentage of alcohol in his blood is more than zero one hundredths  
12 and shall be placed in protective custody at a police station or transferred to a facility.

13 Any person presumed to have consumed alcohol and to be held in protective custody at a police  
14 station shall, immediately after such presumption, have the right and be informed of said right to  
15 make a phone call at his own expense and on his own behalf. Any person assisted by a police  
16 officer to a facility under this section shall have the right to make one phone call at his own  
17 expense on his own behalf and shall be informed forthwith upon arriving at the facility of said  
18 right. The parent or guardian of any person, under the age of eighteen, to be held in protective  
19 custody at a police station shall be notified forthwith upon his arrival at said station or as soon as  
20 possible thereafter.

21 If any incapacitated person is assisted to a police station, the officer in charge or his designee  
22 shall notify forthwith the nearest facility that the person is being held in protective custody. If  
23 suitable treatment services are available at the facility department shall thereupon arrange for the  
24 transportation of the person to the facility in accordance with the provisions of section seven.

25 A police officer acting in accordance with the provisions of this section may use such force as is  
26 reasonably necessary to carry out his authorized responsibilities. If the police officer reasonably  
27 believes that his safety of other persons present so requires, he may search such person and his  
28 immediate surroundings, but only to the extent necessary to discover and seize any dangerous  
29 weapons which may on that occasion be used against the officer or other person present;  
30 provided, however, that if such person is held in protective custody at a police station all  
31 valuables and all articles which may pose a danger to such person or to others may be taken from  
32 his for safekeeping and if so taken shall be inventoried.

33 A person assisted to a facility or held in protective custody by the police pursuant to the  
34 provisions of this section, shall not be considered to have been arrested or to have been charged  
35 with any crime. An entry of custody shall be made indicating the date, time, place of custody,  
36 the name of the assisting officer, the name of the officer in charge, whether the person held in  
37 custody exercised his right to make a phone call, whether the person held in custody exercised  
38 his right to take a breathalyzer test, and the results of the breathalyzer test if taken, which entry  
39 shall not be treated for any purposes as an arrest or criminal record.