

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Mr. Brewer

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 protecting police officers while making a lawful arrest.

PETITION OF:

NAME:

Mr. Brewer

DISTRICT/ADDRESS:

Worcester, Hampden, Hampshire and Franklin

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01368 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT PROTECTING POLICE OFFICERS WHILE MAKING A LAWFUL ARREST.

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. Chapter 268 of the General Laws, as appearing in the 2006 Official Edition, is
2 hereby amended by inserting after Section 32B, the following section:

3 Section 32C (a) Every person who, during the commission of any offense described in Section
4 32B, removes or takes any weapon, other than a firearm, from the actual or constructive
5 possession of a police officer, shall be punished by imprisonment in a jail or house of correction
6 for not more than two and one-half years or a fine of not more than five hundred dollars, or both.

7 (b) Every person who, during the commission of any offense described in Section 32B, removes
8 or takes a firearm from the actual or constructive possession of a police officer, shall be punished
9 by imprisonment in the state prison for not more than five years or by a fine of not more than one
10 thousand dollars or by imprisonment in jail for not more than two and one-half years, or by both
11 such fine and imprisonment in jail.

12 (c) Every person who, during the commission of any offense described in Section 32B, attempts
13 to remove or take a firearm from the actual or constructive possession of a police officer, shall be
14 punished by imprisonment in a jail or house of correction for not more than two and one-half
15 years or a fine of not more than five hundred dollars, or both.

16 In order to prove a violation of this subdivision (c), the prosecution must establish that the
17 defendant had the specific intent to remove or take the firearm by demonstrating that any of the
18 following direct, but ineffectual, acts occurred:

19 (1) The officer's holster strap was unfastened by the defendant.

20 (2) The firearm was partially removed from the officer's holster by the defendant.

21 (3) The firearm safety was released by the defendant.

22 (4) An independent witness corroborates that the defendant stated that he or she intended to
23 remove the firearm and the defendant actually touched the firearm.

24 (5) An independent witness corroborates that the defendant actually had his or her hand on the
25 firearm and tried to take the firearm away from the officer who was holding it.

26 (6) The defendant's fingerprints were found on the firearm or holster.

27 (7) Physical evidence authenticated by a scientifically verifiable procedure established that the
28 defendant touched the firearm.

29 (8) In the course of any struggle, the officer's firearm fell and the defendant attempted to pick it
30 up.

31 (d) As used in this section the term "police officer" shall have the same meaning as that term has
32 in Section 32B of this Chapter.