HOUSE DOCKET, NO. 465 FILED ON: 1/14/2011

HOUSE . . . . . No. 513

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Theodore C. Speliotis	*13th Essex*
Stephen L. DiNatale	*3rd Worcester*

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HOUSE . . . . . No. 513

By Mr. Speliotis of Danvers, a petition (accompanied by bill, House, No. 513) of Theodore C. Speliotis and Stephen L. DiNatale allowing police officers to take into protective custody minors who have consumed alcohol. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *3633* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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

8 Any person assisted by a police officer to a police station shall have the right, and be
9 informed in writing of said right, to request and be administered a breathalyzer test. Any person

10 who is administered a breathalyzer test shall be presumed to have consumed alcohol if evidence
11 from said test indicates that the percentage of alcohol in his blood is more than zero one
12 hundredths 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
14 police station shall, immediately after such presumption, have the right and be informed of said
15 right to make a phone call at his own expense and on his own behalf. Any person assisted by a
16 police officer to a facility under this section shall have the right to make one phone call at his
17 own expense on his own behalf and shall be informed forthwith upon arriving at the facility of
18 said right. The parent or guardian of any person, under the age of eighteen, to be held in
19 protective custody at a police station shall be notified forthwith upon his arrival at said station or
20 as soon as possible thereafter.

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

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

32 valuables and all articles which may pose a danger to such person or to others may be taken from
33 his for safekeeping and if so taken shall be inventoried.

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