HOUSE DOCKET, NO. 3146 FILED ON: 1/18/2013

HOUSE . . . . . No. 1428

The Commonwealth of Massachusetts

PRESENTED BY:

***John D. Keenan*, (BY REQUEST)**

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 relative to liberty preservation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Benjamin Selecky	*3 Granite Street Salem, MA 01970*	*1/18/2013*

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By Mr. Keenan of Salem (by request), a petition (accompanied by bill, House, No. 1428) of Benjamin Selecky for legislation to protect the citizens of the Commonwealth from certain provisions of the National Defense Authorization Act of 2012. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to liberty preservation.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. NEW LAW A new section of law not to be codified in the Commonwealth of Massachusetts Statutes reads as follows:

This act shall be known and may be cited as the "Commonwealth of Massachusetts Liberty Preservation Act"

SECTION 2. NEW LAW A new section of law to be codified in the Commonwealth of Massachusetts Statutes as Section (NUMBER) of Title (NUMBER), unless there is created a duplication in numbering, reads as follows:

The Legislature declares that the authority for this act is the following:

1. The Tenth Amendment to the United States Constitution provides that the United States Federal government is authorized to exercise only those powers delegated to it in the United States Constitution and nothing more. The guaranty of those limitations on federal power is a matter of contract between the state and people of the Commonwealth of Massachusetts and the United States at of the time that the United States Constitution was agreed upon and adopted by the Commonwealth of Massachusetts and the United States;

2. Article IV of the Constitution of the Commonwealth of Massachusetts provides that the people of the commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America in Congress assembled;

3. Article VI, Clause 2 of the United States Constitution provides that laws of the United States are the supreme law of the land provided that they are made in pursuance of the powers delegated to the federal government in the United States Constitution;

4. Article I Section 9, Clause 2 of the United States Constitution provides that the Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it;

5. Article XXVIII of the Constitution of the Commonwealth of Massachusetts provides that no person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature;

6. The First Amendment of the United States Constitution provides that the Congress of the United States shall make no law prohibiting the right of the people to petition the Government for a redress of grievances;

7. The Fourth Amendment of the United States Constitution provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated;

8. Article XIV of the Constitution of the Commonwealth of Massachusetts provides that every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions;

9. The Fifth Amendment of the United States Constitution provides that the People have a right to be free from deprivation of life, liberty, or property, without Due Process of law;

10. Article XII of the Constitution of the Commonwealth of Massachusetts provides that no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land;

11. The Sixth Amendment of the United States Constitution provides that the people have a right in criminal prosecutions to enjoy a speedy trial by an impartial jury in the State and District where the crime shall have been committed; to be informed of the nature and cause of the accusation; to confront witnesses; to Counsel;

12. The Fourteenth Amendment of the United States Constitution provides that the people are to be free from deprivation of life, liberty, or property, without Due Process of law.

SECTION 3. NEW LAW A new section of law to be codified in the Commonwealth of Massachusetts Statutes as Section (NUMBER) of Title (NUMBER), unless there is created a duplication in numbering, reads as follows:

The Legislature finds that:

1. Section 1021 of the National Defense Authorization Act of 2012 purports to assert the President's authority to not only arrest suspected terrorists, but also to determine whether or not a trial, including what type of trial, will be held for those arrested;

2. Section 1022 of the National Defense Authorization Act of 2012 requires detention without trial by the military for a certain class of terrorist and authorizes but does not require the same for citizens of the United States;

3. The exemption for citizens of the United States in Section 1022 of the National Defense Authorization Act of 2012 only exempts citizens from a requirement and reads as follows, "The requirement to detain a person in military custody under this section does not extend to citizens of the United States";

4. The enactment into law by the United States Congress of Sections 1021 and 1022 of the National Defense Authorization Act of 2012, Public Law Number 112-81, is inimical to the liberty, security and well-being of the people of the Commonwealth of Massachusetts, and was adopted by the United States Congress in violation of the limits of federal power in United States Constitution, including but not limited to, those listed in Section 2 of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Commonwealth of Massachusetts Statutes as Section (NUMBER) of Title (NUMBER), unless there is created a duplication in numbering, reads as follows:

1. The Commonwealth of Massachusetts shall not provide material support or participate in any way with the implementation of Sections 1021 and 1022 of the National Defense Authorization Act of 2012 within the boundaries of this state;

2. The Department of Public Safety is hereby directed to report to the Governor and the Legislature any attempt by agencies or agents of the United States Federal Government, or any private contractor or corporation working on behalf of the Federal Government to secure the implementation of Sections 1021 and 1022 of the National Defense Authorization Act of 2012 through the operations of that or any other state department;

3. The indefinite detention, prosecution according to the law of war, and transfer to a foreign jurisdiction of persons as provided for by Sections 1021 and 1022 of the National Defense Authorization Act of 2012 are in direct contravention to the limits on federal power as specified in Section 2 of this act and are illegal within the boundaries of the Commonwealth of Massachusetts;

SECTION 5. NEW LAW A new section of law to be codified in the Commonwealth of Massachusetts Statutes as Section (NUMBER) of Title (NUMBER), unless there is created a duplication in numbering, reads as follows:

1. Any public officer, employee, or agent of the Commonwealth of Massachusetts, or any employee of a corporation providing services to the Commonwealth of Massachusetts that enforces or attempts to enforce an act, order, law, statute, rule or regulation of the government of the United States in violation of Section 4 of this act shall be guilty of a class A misdemeanor punishable by imprisonment for not more than six (6) months or by a fine not exceeding Five Hundred Dollars ($500.00) or both such fine and imprisonment;

2. Any official, agent, or employee of the government of the United States, or employee of a corporation providing services to the government of the United States that enforces or attempts to enforce an act, order, law, statute, rule, or regulation of the government of the United States in violation of Section 4 of this act shall be guilty of a class B felony punishable by imprisonment for not more than one (1) year, or a fine of not more than Two Thousand Dollars ($2,000.00), or by both such fine and imprisonment.

SECTION 6. This act shall take effect immediately upon approval by the Governor.