

HOUSE No. 146

By Mr. Bagley of Townsend, petition of Earle S. Bagley for legislation relative to the release of certain persons arrested for drunkenness. Legal Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Seven.

AN ACT RELATIVE TO THE RELEASE OF CERTAIN PERSONS ARRESTED FOR DRUNKENNESS.

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 45 of chapter 272 of the General Laws, as
2 most recently amended by chapter 274 of the acts of
3 1946, is hereby further amended by striking out, in
4 the 14th, 42d and 44th lines, the word "shall" and
5 inserting in place thereof, in each instance, the word:—
6 may, — so as to read as follows:— *Section 45.* Who-
7 ever arrests a person for drunkenness shall make a
8 complaint against him therefor at the next session of
9 the court or of the trial justice having jurisdiction of
10 the case; and such court or trial justice may proceed
11 to hear and to dispose of the same according to due
12 course of law; and may, if the accused has been re-
13 leased under this section, order the issuance of a war-
14 rant for the arrest, or a summons for the appearance,
15 of the accused for trial, or if the court is satisfied by

16 the report of its probation officer, or otherwise, or if
17 the trial justice is satisfied upon inquiry that the ac-
18 cused has not four times before been arrested for
19 drunkenness within a year, and that his written state-
20 ment hereinafter mentioned is true, the court or trial
21 justice may thereupon direct that the accused, if still
22 in custody, be released without arraignment; and if
23 not in custody, that further proceedings in the case
24 be suspended or that the complaint be dismissed.

25 A person so arrested may, after he has recovered
26 from his intoxication, make a written statement, ad-
27 dressed to the court or trial justice having jurisdiction
28 of his offence, giving his name and address, setting
29 forth what persons, if any, are dependent upon him
30 for support, his place of employment, if any, and
31 whether he has been arrested for drunkenness within
32 the twelve months next preceding, and requesting to
33 be released from custody; and may deliver said state-
34 ment to the officer in charge of the place in which he is
35 confined, who shall endorse thereon the name of the
36 arresting officer, and if the arrest is made within the
37 jurisdiction of a trial justice, his opinion of the prob-
38 able truth of said statement for the use of such trial
39 justice, and shall transmit the same to such trial jus-
40 tice; and if the arrest is made within the jurisdiction
41 of a court having a probation officer, the officer in
42 charge of the place in which he is confined shall trans-
43 mit such statement to said probation officer. Said
44 probation officer, or his assistants, shall forthwith in-
45 quire into the truth thereof and shall investigate the
46 record of said person as to previous similar offences,
47 and, for the use of the court having jurisdiction of the
48 case, shall endorse on such statement, with his signa-
49 ture, the result of his investigation. The officer for
50 the time being in charge of the place of custody in a

51 town where no probation officer resides forthwith may
52 release, and elsewhere the probation officer or assist-
53 ant probation officer of the court having jurisdiction
54 of the offence may direct the officer in charge of the
55 place of custody forthwith to release, and such officer
56 so in charge shall thereupon release, such arrested per-
57 son pursuant to his request; provided, that the officer
58 so releasing or directing the release believes that the
59 person arrested has given his true name and address,
60 that he will appear upon a summons, and that he has
61 not four times before been arrested for drunkenness
62 within the preceding twelve months.

