

HOUSE No. 1822

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 5, 1947.

The committee on Legal Affairs, to whom were referred the petition (accompanied by bill, House, No. 146) of Earle S. Bagley for legislation relative to the release of certain persons arrested for drunkenness, the petition (accompanied by bill, House, No. 154) of Henry W. Pickford for legislation relative to the release of certain persons arrested for drunkenness, and the petition (accompanied by bill, House, No. 512) of Anthony Kupha for legislation relative to the release of certain persons arrested for drunkenness, report the accompanying bill (House, No. 1822).

For the committee,

ERNEST W. DULLEA.

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
3 of 1946, is hereby further amended by striking out,
4 in lines 12 and 50, the word "four" and inserting in
5 place thereof, in each instance, the word: — three, —
6 so as to read as follows: — *Section 45.* Whoever
7 arrests a person for drunkenness shall make a com-
8 plaint against him therefor at the next session of the
9 court or of the trial justice having jurisdiction of the
10 case; and such court or trial justice may proceed to
11 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
14 warrant for the arrest, or a summons for the appear-
15 ance, of the accused for trial, or if the court is satisfied
16 by the report of its probation officer, or otherwise, or
17 if the trial justice is satisfied upon inquiry that the
18 accused has not three times before been arrested for
19 drunkenness within a year, and that his written
20 statement hereinafter mentioned is true, the court or

21 trial justice shall thereupon direct that the accused,
22 if still in custody, be released without arraignment;
23 and if not in custody, that further proceedings in the
24 case 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
33 to be released from custody; and may deliver said
34 statement to the officer in charge of the place in which
35 he is confined, who shall endorse thereon the name of
36 the arresting officer, and if the arrest is made within
37 the jurisdiction of a trial justice, his opinion of the
38 probable truth of said statement for the use of such
39 trial justice, and shall transmit the same to such trial
40 justice; and if the arrest is made within the jurisdic-
41 tion of a court having a probation officer, the officer
42 in charge of the place in which he is confined shall
43 transmit such statement to said probation officer.
44 Said probation officer, or his assistants, shall forthwith
45 inquire 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 sig-
49 nature, 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
52 shall release, and elsewhere the probation officer or
53 assistant probation officer of the court having juris-

54 diction of the offence shall direct the officer in charge
55 of the place of custody forthwith to release, and such
56 officer so in charge shall thereupon release, such
57 arrested person pursuant to his request; provided,
58 that the officer so releasing or directing the release
59 believes that the person arrested has given his true
60 name and address, that he will appear upon a sum-
61 mons, and that he has not three times before been
62 arrested for drunkenness within the preceding twelve
63 months.