

HOUSE No. 429

Bill accompanying the petition of the Massachusetts Association of Relief Officers relative to the penalty for desertion and non-support in certain instances. Legal Affairs. January 15.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Twenty.

AN ACT

Relative to the Penalty for Desertion and Non-support.

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 one of chapter four hundred and
2 fifty-six of the acts of nineteen hundred and eleven is
3 hereby amended by adding thereto the following:—
4 *provided, however,* that upon such conviction, any person
5 who has been found guilty by any court on a similar
6 charge twice within a period of three years shall be
7 punished by imprisonment in the state farm for not less
8 than one year nor more than three years, — so as to read
9 as follows:— *Section 1.* Any husband who without just
10 cause deserts his wife or minor child or children, whether
11 by going into another town or city in this commonwealth
12 or into another state, and leaves them or any or either of
13 them without making reasonable provision for their sup-

14 port, and any husband who unreasonably neglects or re-
15 fuses to provide for the support and maintenance of his
16 wife or minor child or children or abandons or leaves them
17 or any or either of them in danger of becoming a burden
18 upon the public, and any parent, whether father or
19 mother, who deserts or wilfully neglects or refuses to pro-
20 vide for the support and maintenance of his or her child
21 or children under the age of sixteen, or whose minor child
22 by reason of the neglect, cruelty, drunkenness, habits of
23 crime or other vice of such parent is growing up without
24 education, or without salutary control, or without proper
25 physical care or in circumstances exposing such child to
26 lead an idle and dissolute life, shall be guilty of a crime,
27 and on conviction thereof shall be punished by a fine not
28 exceeding two hundred dollars, or by imprisonment for
29 not more than one year, or by both such fine and im-
30 prisonment: *provided, however*, that upon such conviction,
31 any person who has been found guilty by any court on a
32 similar charge twice within a period of three years shall
33 be punished by imprisonment in the state farm for not
34 less than one year nor more than three years.

1 SECTION 2. Section three of chapter four hundred and
2 fifty-six of the acts of nineteen hundred and eleven is
3 hereby amended by adding thereto the following:— The
4 overseers of the poor of the city or town in which the
5 wife or children of any person guilty of the above-named
6 offences live, shall be made parties to said proceedings
7 and due notice of said proceedings shall immediately be
8 sent to the board of overseers of the poor of said cities
9 and towns by the clerk of the court, or the trial justice
10 of the district where said complaint is made, — so as to
11 read as follows:— *Section 3.* Proceedings under this act
12 may be begun upon complaint made under oath or

13 affirmation by the wife, or by the child or children. or by
14 any other person against any person guilty of any of the
15 above named offences, in the municipal, district or police
16 court, or before the trial justice of the district in which
17 the husband and wife, or either of them, are living or in
18 which they last lived together. The overseers of the poor
19 of the city or town in which the wife or children of any
20 person guilty of the above named offences live, shall be
21 made parties to said proceedings and due notice of said
22 proceedings shall immediately be sent to the board of over-
23 seers of the poor of said cities or towns by the clerk of the
24 court, or the trial justice of the district where said com-
25 plaint is made.

1 SECTION 3. Section five of chapter four hundred and
2 fifty-six of the acts of the year nineteen hundred and
3 eleven is hereby amended by inserting after the word
4 "five", in the eighth line, the words:— or if the de-
5 fendant appeals from the decision of the court, — by insert-
6 ing after the word "years", in the fourteenth line, the
7 words:— or where the defendant appeals, during the
8 time elapsing before trial,— and by inserting after the
9 word "fixed", in the twenty-fifth line, the words:—
10 except where the defendant previously has been twice
11 found guilty as provided in section one of this act, — so
12 as to read as follows:— *Section 5.* Before the trial with
13 the consent of the defendant, or at the trial, on entry of
14 a plea of guilty, or after conviction, if the defendant is
15 placed on probation or if his sentence is suspended and
16 he is placed on probation under the provisions of section
17 one of chapter two hundred and twenty of the Revised
18 Laws, as amended by section one of chapter three hun-
19 dred and thirty-eight of the acts of the year nineteen
20 hundred and five; or if the defendant appeals from the

21 decision of the court, the court in its discretion, having
22 regard to the circumstances and to the financial ability
23 or earning capacity of the defendant, shall have power to
24 make an order, which shall be subject to change by the
25 court from time to time as circumstances may require,
26 directing the defendant to pay a certain sum periodically,
27 for a term not exceeding two years, or where the de-
28 fendant appeals, during the time elapsing before trial, to
29 the probation officer, who shall pay over the same to the
30 wife or to the guardian or custodian of the said minor
31 child or children, or to the city, town, corporation or
32 society supporting the wife or minor child or children at
33 the time when the sentence was imposed, or to the treas-
34 urer of the commonwealth for the use of the state board
35 of charity when the complaint is for neglect to provide
36 for the support of the minor child or minor children who
37 have been committed to the custody of said board; and
38 the court shall also have power to release the defendant
39 from custody on probation for the period so fixed, except
40 where the defendant previously has been twice found
41 guilty as provided in section one of this act, upon his or
42 her entering into a recognizance, with or without surety,
43 in such sum as the court or a judge thereof in vacation
44 may order and approve. The condition of the recog-
45 nizance shall be that if the defendant shall make his or
46 her personal appearance in court, whenever ordered to do
47 so, and shall comply with the terms of the order of sup-
48 port, or of any subsequent modification thereof, then the
49 recognizance shall be void, but otherwise it shall be of full
50 force and effect. Suit may be brought upon said recog-
51 nizance by any person authorized by the court, and the
52 proceeds of the suit shall be applied to the support of the
53 wife or of the minor child or children as the court shall
54 direct.