

**SENATE . . . . . No. 144**

By Mr. Brewer, a petition (accompanied by bill, Senate, No. 144) of the Massachusetts Coalition of Police, AFL-CIO, by Kenneth Scanzio, vice president, Stephen M. Brewer and the Massachusetts Police Association, by James Machado, for legislation to protect police officers while making a lawful arrest. Criminal Justice.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Nine.

**AN ACT PROTECTING POLICE OFFICERS WHILE MAKING A LAWFUL ARREST.**

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

1 Chapter 268 of the General Laws is hereby amended by  
2 inserting after Section 32B, as appearing in the 1996 Official  
3 Edition, the following section: —

4 (a) Every person who, during the commission of any offense  
5 described in Section 32B, removes or takes any weapon, other  
6 than a firearm, from the person of, or immediate presence of, a  
7 police officer shall be punished by imprisonment in a jail or house  
8 of correction for not more than two and one-half years or a fine of  
9 not more than five hundred dollars, or both.

10 (b) Every person who, during the commission of any offense  
11 described in Section 32B, removes or takes a firearm from the  
12 person of, immediate presence of, a police officer shall be pun-  
13 ished by imprisonment in the state prison for not more than five  
14 years or by a fine of not more than one thousand dollars or by  
15 imprisonment in jail for not more than two and one-half years, or  
16 by both such fine and imprisonment in jail.

17 (c) Every person who, during the commission of any offense  
18 described in Section 32B, attempts to remove or take a firearm  
19 from the person of, or immediate presence of, a police officer  
20 shall be punished by imprisonment in a jail or house of correction  
21 for not more than two and one-half years or a fine of not more  
22 than five hundred dollars, or both.

23 In order to prove a violation of this subdivision (c), the prose-  
24 cution shall establish that the defendant had the specific intent to  
25 remove or take the firearm by demonstrating that any of the  
26 following direct, but ineffectual, acts occurred:

27 (1) The officer's holster strap was unfastened by the defendant.

28 (2) The firearm was partially removed from the officer's holster  
29 by the defendant.

30 (3) The firearm safety was released by the defendant.

31 (4) An independent witness corroborates that the defendant  
32 stated that he or she intended to remove the firearm and the defen-  
33 dant actually touched the firearm.

34 (5) An independent witness corroborates that the defendant  
35 actually had his or her hand on the firearm and tried to take the  
36 firearm away from the officer who was holding it.

37 (6) The defendant's fingerprints were found on the firearm or  
38 holster.

39 (7) Physical evidence authenticated by a scientifically verifi-  
40 able procedure established that the defendant touched the firearm.

41 (8) In the course of any struggle, the officer's firearm fell and  
42 the defendant attempted to pick it up.

43 (d) The term "police officer" as used in this section shall have  
44 the same meaning as that term has in Section 32B of this Chapter.