

By Mr. Clancy, a petition (accompanied by bill, Senate, No. 826) of Edward J. Clancy, Jr., and Robert F. Fennell for legislation relative to the use of a signed certificate as prima facie evidence in drug trials. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT RELATIVE TO THE USE OF A SIGNED CERTIFICATE AS PRIMA FACIE EVIDENCE IN DRUG TRIALS.

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 thirty-two J of chapter ninety-four C, as appearing in
2 the 1996 Official Edition, is hereby amended by adding at the end
3 thereof the following new paragraphs:

4 An engineer or assistant engineer employed by a municipality
5 or agency of the Commonwealth shall, upon request, furnish a
6 signed certificate, on oath, that a particularly described location is
7 situated within one thousand feet of the real property comprising a
8 public or private elementary, vocational, or secondary school, or
9 within one hundred feet of a public park or playground of the
10 Commonwealth, for use in the enforcement of this section; pro-
11 vided that, within said certificate, said engineer shall describe the
12 method utilized to verify that said particularly described location
13 is situated as stated within the certificate.

14 The signed certificate provided to any police officer or prose-
15 cutor for the enforcement of this section and the presentation of
16 such certificate to the court shall be prima facie evidence that all
17 the requirements and provisions of the certificate have been com-
18 plied with. This certificate shall be sworn to before a justice of the
19 peace or notary public, and the jurat shall contain a statement that
20 the subscriber is the engineer or assistant engineer of a munici-
21 pality or agency of the Commonwealth. When properly executed,
22 a signed certificate shall be prima facie evidence that a particu-
23 larly described location is situated within one thousand feet of the

24 real property comprising a public or private elementary, voca-
25 tional, or secondary school, or within one hundred feet of public
26 park or playground of the Commonwealth, and the court shall take
27 judicial notice of the signature of the engineer or assistant engi-
28 neer, and of the fact that he or she is such. Nothing in this section
29 shall prohibit a party to said criminal action from presenting evi-
30 dence to contradict the facts asserted in said certificate or from
31 summoning said engineer or assistant engineer to appear in court
32 should the issue of said engineer or assistant engineer's bias or
33 motive be raised by a party.