

**SENATE . . . . . No. 712**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

*Cynthia S. Creem*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to equitable divorce proceedings.

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PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Cynthia S. Creem*

**SENATE . . . . . No. 712**

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 712) of Cynthia S. Creem for legislation relative to divorce procedures and judgments in certain Probate Court decisions. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1563 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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An Act relative to equitable divorce proceedings.

*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. Chapter 208 of the General Laws is hereby amended by striking  
2 out the third paragraph of Section 1A and inserting in place thereof the following paragraph:-

3                   If the finding is in the affirmative the court shall approve the agreement and  
4 enter a Judgment of Divorce Nisi.

5                   SECTION 2. Section 1B of Chapter 208 of the General Laws is hereby  
6 amended by striking out section 1B and inserting in place thereof the following section:-

7                   Section 1B. Irretrievable breakdown of marriage; commencement of action;  
8 waiting period; unaccompanied complaint procedure.

9                   An act for divorce on the ground of an irretrievable breakdown of the marriage  
10 may be commenced by the filing of the complaint unaccompanied by the signed statement and  
11 dissolution agreement the parties require under section 1A.

12                   No earlier than thirty days after the filing of the complaint there shall be a  
13 hearing and the court may enter a judgment of divorce Nisi if the court finds that there has  
14 existed, for the period following the filing of the complaint and up to the date of the hearing, a  
15 continuing irretrievable breakdown of the marriage.

16                   Notwithstanding the foregoing, at the election of the court hereunder, the  
17 aforesaid thirty day period may be waived to allow the consolidation for the purposes of hearing a  
18 complaint commence under this section with a complaint for divorce commenced by the  
19 opposing party under section 1.

20                   The filing of a complaint for divorce under this section shall not affect the  
21 ability of the defendant to obtain a hearing on a complaint for divorce filed under section 1, even  
22 if the aforesaid thirty day period has not yet expired.

23                   Said thirty day period shall be determined from the filing of a complaint for  
24 divorce. In the event that a complaint for divorce is commenced in accordance with the  
25 provisions of section 1A or is for a cause set forth under section 1, and said complaint is later  
26 amended to set forth the ground established in this section, the thirty day period herein set forth  
27 shall be computed from the date of the filing of said complaint.

28                   As part of the enter of the judgment of divorce Nisi, appropriate orders shall be  
29 made by the court with respect to custody, support and maintenance of children, and, in  
30 accordance with the provisions of section 34, for alimony and for disposition of marital property.

31                    Nothing in the foregoing shall prevent the court, at any time prior to the  
32 judgment, from making temporary orders for custody, support and maintenance or such other  
33 temporary orders it deems appropriate, including referral of the parties and the children, if any,  
34 for marriage or family counseling. Prior to the entry of judgment under this section, in the event  
35 that the parties file the statement and dissolution agreement as required under said section 1A.

36                    SECTION 3. Chapter 208 of the General Laws is hereby amended by striking  
37 out section 21 and inserting in place thereof the following section:-

38                    Section 21. Judgments of divorce shall in the first instance be judgments nisi,  
39 and shall become absolute after the expiration of thirty days from the entry thereof, unless the  
40 court within said period, for sufficient cause, upon application of any party to the action,  
41 otherwise orders. After the entry of a judgment nisi, the action shall not be dismissed or  
42 discontinued on motion of either party except upon such terms, if any, as the court may order  
43 after notice to the other party and a hearing, unless there has been filed with the court a  
44 memorandum signed by both parties, wherein they agree to such disposition of the action.