

HOUSE No. 1785

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the determination of alimony payments..

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 34 of Chapter 208 of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended in the third sentence by striking the words:

3 “or in fixing the nature and value of the property, if any, to be so assigned, the court,
4 after hearing the witnesses, if any, of each party, shall consider the length of the marriage, the
5 conduct of the parties during the marriage, the age, health, station, occupation, amount and
6 sources of income, vocational skills, employability, estate, liabilities and needs of each of the
7 parties and the opportunity of each for future acquisition of capital assets and income.”;

8 And by inserting in place thereof the following words:

9 “the court shall consider all of the following circumstances:

10 The extent to which the earning capacity of each party is sufficient, together with the
11 unearned income described in (h) below, to maintain the preponderance of the standard of living
12 established during the marriage and upon the date of separation, taking into account the
13 marketable skills of whichever party may not then exhibit such sufficient earning capacity and

14 the time and expense of employment counseling and training required to further develop such
15 skills or to acquire other, more marketable skills or employment.

16 The willingness and diligence of the party not then exhibiting such earning capacity to
17 seek the employment counseling and training described in (a) above.

18 The goal that any party needing alimony shall be self-supporting within a reasonable
19 period of time. Such reasonable period of time shall be one-half of the length of the marriage.
20 The length of the marriage is the period commencing upon the date of the marriage and ending
21 upon the date of separation, deducting therefrom any period(s) of physical separation during the
22 marriage. Such reasonable period of time, or duration of alimony, shall not exceed twelve years
23 except only when the supported party shall have custody (sole physical or joint (or “shared”)
24 physical) of one or more children of the marriage not then having attained the age of sixteen
25 years as of such twelfth year, in which case alimony shall continue until such one or more
26 children have attained such age.

27 All alimony due for more than five years shall, beginning with the commencement of the
28 second half of such period of time of alimony and continuing each twelve month period
29 thereafter during such second half, decline by ten percent after the application of (e) below and
30 except only when either: 1) the supported party shall then have custody (sole physical or joint
31 (or “shared”) physical) of one or more children of the marriage then not having attained the age
32 of sixteen years; or 2) the court finds the supported party to be incapable, both physically and
33 mentally, of any gainful employment.

34 The sole and exclusive reason or cause warranting an increase in the amount of alimony
35 shall be the percentage rise, if any, during the prior calendar year in the Consumer Product

36 Index, as published by the United States Department of Labor, such increase shall commence at
37 the beginning of the calendar year and shall equal such rise provided that the earned income of
38 the supporting party has increased during such prior calendar year by more than three times such
39 percentage increase in such Index.

40 The obligation of the supporting party to pay alimony shall, without exception, cease
41 upon such party attaining retirement age, as defined in Title II, section 216, of the Social
42 Security Act (42 USC 416).

43 The ability of the supporting party to pay alimony, taking into account such party's actual
44 earned income during the prior calendar year, the average of the actual earned income during the
45 three prior calendar years, the cost to maintain the preponderance of the standard of living
46 defined in (a) above, the obligation to pay child support, and the impact on such earned income
47 should the supporting party have custody (sole physical or joint (or "shared") physical) of one or
48 more children of the marriage.

49 The unearned income generated by the marital assets owned by the supported party
50 following the divorce.

51 The duration of the marriage.

52 The age and health of the parties

53 The extent, if any, to which the supported party contributed to the attainment by the
54 supporting party of an education, training or license.

55 There shall be a rebuttable presumption of substantially decreased need for alimony if the
56 supported party is cohabiting with another adult.

57 (m)The income and assets of any adult cohabiting with the supporting party, whether or
58 not the supporting party is married to such adult, shall not be considered when
59 determining or modifying alimony.

60 (n)All alimony orders and agreements in effect as of the date hereof shall be amended by
61 the court, within eighteen months of such date, to be in substantial compliance
62 herewith excepting only that the maximum duration of alimony following such date
63 shall be the greater of: 1) three years; or 2) three years, plus the reasonable period of
64 time, as defined in (c) above, less the number of years alimony has been paid prior to
65 such date.