

HOUSE No. 2244

The Commonwealth of Massachusetts

PRESENTED BY:

Charles A. Murphy

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 shared parenting.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Charles A. Murphy</i>	<i>21st Middlesex</i>	<i>1/21/2011</i>

HOUSE No. 2244

By Mr. Murphy of Burlington, a petition (accompanied by bill, House, No. 2244) of Charles A. Murphy relative to the rights of parents in child custody proceedings. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to shared parenting.

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 31 of Chapter 208 of the General Laws, as appearing in the most
2 recent edition, is hereby amended by striking the sixth paragraph and inserting in place thereof
3 the following paragraph:- “In making an order or judgement relative to the custody of children,
4 the rights of the parents shall, in the absence of abuse or neglect, be held to be equal.
5 Concomitant with the equal rights of parents is the right of the child(ren) to spend equal time
6 with each parent.”

7 SECTION 2. Said section 31 is hereby further amended by striking the seventh
8 paragraph and inserting in place thereof the following paragraph:- “Upon the filing of an action
9 in accordance with the provisions of this section, section twenty-eight of this chapter, or section
10 thirty-two of chapter two hundred and nine and until a judgement on the merits is rendered,
11 absent clear and convincing evidence of abuse or neglect, the parents shall have temporary
12 shared legal and physical custody of any minor child of the marriage.”

13 SECTION 3. Said section 31 is hereby further amended by striking the eighth
14 paragraph and inserting in place thereof the following paragraph:- “Fit parents by definition and
15 by virtue of the natural, immutable bond they share with the child(ren), both define and act in the
16 best interest of the child(ren). Absent clear and convincing evidence that either parent is unfit,
17 each parent shall be presumed to be fit, and as such the court shall order temporary shared legal
18 and physical custody of the child(ren).”

19 SECTION 4. Said section 31 is hereby further amended by striking the following
20 paragraphs:-

21 “If, despite the prior or current issuance of a restraining order against one parent pursuant
22 to chapter two hundred and nine A, the court orders shared legal or physical custody either as a
23 temporary order or at a trial on the merits, the court shall provide written findings to support such
24 shared custody order.

25 There shall be no presumption either in favor of or against shared legal or physical
26 custody at the time of the trial on the merits, except as provided for in section 31A.”

27 SECTION 5. Said section 31 is hereby further amended by striking the twelfth
28 paragraph and inserting in place thereof the following paragraph:- “At the trial on the merits, the
29 court shall consider the shared custody implementation plans submitted by the parties. In
30 conjunction therewith, absent clear and convincing evidence that either parent is unfit, the court
31 must accept the shared custody implementation plan submitted by the parties jointly. Absent a
32 jointly submitted shared custody implementation plan, the court must accept the shared custody
33 implementation plan submitted by either party.”

34 SECTION 6. Said section 31 is hereby further amended by striking the fourteenth
35 paragraph and inserting in place thereof the following paragraph:- If shared physical custody is
36 ordered, the judge shall at that time make a child support order, or revise its previous order, as
37 appropriate to the circumstances.”

38 SECTION 7. Said section 31 is hereby further amended by striking the last paragraph
39 and inserting in place thereof the following paragraph:- “Where the parents have reached an
40 agreement providing for the custody of the children, the court shall enter an order in accordance
41 with such agreement.”