

**SENATE . . . . . No. 785**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Richard J. Ross***

*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 custody.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Robert LeClair</i>	<i>369 Franklin Street Wrentham, MA 02093</i>

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By Mr. Ross, a petition (accompanied by bill, Senate, No. 785) of Richard J. Ross, Bruce E. Tarr, Robert L. Hedlund, Michael R. Knapik and other members of the General Court for legislation to share custody of minor children of divorced or separated parents. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 847 OF 2011-2012.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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An Act relative to shared custody.

*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  
2 the 2010 Official Edition, is hereby amended by striking out the second through the ninth  
3 paragraphs, and inserting in place thereof the following 3 paragraphs:-

4                   To ensure minor children of frequent and continuing contact and a meaningful  
5 relationship with both parents after the parents have separated and divorced, it becomes  
6 necessary to encourage parents to share in the rights and responsibilities of child care and  
7 rearing. Primary considerations in awarding custody shall be given to both parents jointly in  
8 order to secure the best interest of the children by providing continuation of parent-child  
9 relationships. It is therefore the presumption of the courts that in most cases shared custody  
10 should be considered paramount to ensure the happiness and welfare of the children.

11                   In all separation and divorce proceedings involving minor children, it shall be  
12 a presumption of the court that both parents have an inalienable right to share temporary and  
13 final legal, as well as physical, custody of the children unless one or both parents: (1) are proven  
14 to be unfit to such an extent and in such a manner as to cause immediate physical or emotional  
15 danger or damages to the children, (2) abandon the children, or (3) voluntary relinquish custody.  
16 An agreement signed by both parents defining the shared arrangements shall be the order of the

17 courts, provided the parents have been apprised of their custody rights, or unless clear and  
18 convincing findings indicate that such an order would not be in the best interest of the children.

19                   Only after the parents have attempted and failed to reach an agreement on the  
20 shared living arrangements of the children shall the court determine the shared arrangements.  
21 The children shall also have the right to reside and spend an equal amount of time with each  
22 parent, provided this sharing arrangement does not interfere nor disrupt the school term. If equal  
23 time is neither practical nor possible, the right of one parent to a minimum guaranteed amount of  
24 time per year with the children shall be established and protected by the courts.