

SENATE No. 785

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> |

SENATE No. 785

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.

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

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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.