

SENATE No. 743

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

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.

PETITION OF:

NAME:

Cynthia S. Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

SENATE No. 743

By Ms. Creem, a petition (accompanied by bill, Senate, No. 743) of Cynthia S. Creem for legislation relative to divorce procedures and judgments in certain Probate Court decisions. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 685 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

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 out the
2 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 enter a
4 Judgment of Divorce Nisi.

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

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

9 An act for divorce on the ground of an irretrievable breakdown of the marriage may be
10 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 hearing and the
13 court may enter a judgment of divorce Nisi if the court finds that there has existed, for the period
14 following the filing of the complaint and up to the date of the hearing, a continuing irretrievable
15 breakdown of the marriage.

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

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

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

28 As part of the enter of the judgment of divorce Nisi, appropriate orders shall be made by
29 the court with respect to custody, support and maintenance of children, and, in accordance with
30 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 judgment, from
32 making temporary orders for custody, support and maintenance or such other temporary orders it
33 deems appropriate, including referral of the parties and the children, if any, for marriage or
34 family counseling. Prior to the entry of judgment under this section, in the event that the parties
35 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 out section
37 21 and inserting in place thereof the following section:-

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