

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Alice Hanlon Peisch, (BY REQUEST)

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 child-centered family law.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-------------------|--------------------------------------|------------------|
| <i>Peter Hill</i> | <i>687 Wellesley Road, Weston MA</i> | <i>6/10/2021</i> |

HOUSE No.

By Ms. Peisch of Wellesley (by request), a petition (subject to Joint Rule 12) of Peter Hill relative to child-centered family law. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to child-centered family law.

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 34H of Chapter 71 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out, in line 29, the word “visitation” and inserting
3 in place thereof the following words:- parenting time, as defined in Section 31 of Chapter 208.

4 SECTION 2. Chapter 208 of the General Laws is hereby amended by striking out section
5 31 and inserting in place thereof the following section:-

6 Section 31. A. The General Court finds that every child in the Commonwealth has the
7 right to a safe, healthy and meaningful relationship with both parents, subject to the court’s
8 determination of each child’s best interest, and encourages shared parental responsibilities.
9 Parenting plans should prioritize the unique needs and evolving maturity of each child consistent
10 with the safety, best interest and well-being of the child. A parenting plan shall be incorporated
11 into every order, judgment of divorce and modification judgment involving parental
12 responsibility for minor children.

13 B. For purposes of this chapter, the following terms shall, unless the context dictates
14 otherwise, have the following meanings:-

15 1. “Decision-Making Responsibility”,

16 a. Shared: Both parents shall have mutual responsibility and involvement in major
17 decisions regarding the child’s welfare including matters of education, medical care, and
18 emotional, moral and religious development, in accordance with the best interest of the child.

19 b. Sole: A parent shall have the responsibility to make major decisions regarding the
20 child’s welfare including matters of education, medical care, or emotional, moral and religious
21 development, in accordance with the best interest of the child.

22 2. “Residential Responsibility”,

23 a. Shared: A child shall have periods of residing with and being under the care and
24 responsibility of each parent; provided, however, that such periods shall be shared by the parents
25 in such a way as to assure a child frequent, continued and developmentally appropriate contact
26 with both parents in accordance with the best interest of the child. Time with each parent may
27 but shall not necessarily be equal. The parenting plan shall be known as shared residential
28 responsibility only if the child’s period of residing with and being under the care and
29 responsibility of each parent amounts to one-third or more of the parenting time; provided,
30 however, that nothing in this paragraph establishes a presumption that a child shall spend a
31 minimum of one-third of the time or more with each parent.

32 b. Primary: A child shall reside with and be under the care and responsibility of one
33 parent, and have reasonable parenting time with the other parent, unless the court determines that
34 such time with the other parent would not be in the best interest of the child.

35 3. “Parental Responsibility”, this term shall encompass both decision-making and
36 residential responsibility.

37 4. “Parenting Plan”, a written plan describing parental responsibility relative to each
38 child.

39 5. “Parenting Time”, the time when the child is under the care and responsibility of one
40 parent, regardless of whether or not that parent has shared or primary residential responsibility.

41 C. Upon the filing of an action under this section, parents shall have shared decision-
42 making responsibility of any minor child of their marriage until either the parties enter into a
43 written agreement concerning parental responsibilities or a court orders otherwise. A parenting
44 plan shall be included in any temporary order issued by the court involving parental
45 responsibility for minor children.

46 D. In determining parental responsibilities, both at the time of entry of orders and
47 judgment, the court shall at all times be guided by the best interest of the child, and shall
48 consider both section 31A, if applicable, and the following factors as evidence or information is
49 presented thereon:

50 1. The relationship of the child with each parent, including the parent’s ability to
51 understand the child’s needs and the ability of the parent to be available during his or her
52 parenting time.

53 2. The reasonable wishes of the child, if the child is of sufficient age, capacity,
54 temperament and understanding. When considering the child’s wishes, the court may also give
55 due consideration to factors that have unduly influenced the child’s preference.

56 3. The ability for each parent to work together and communicate cooperatively with the
57 other regarding the child’s schedule, routine and physical and emotional needs and; the ability of
58 a parent to foster a positive relationship and frequent and continuing physical, written, electronic,
59 telephonic and other contact between the child and the other parent.

60 4. The geographical location and availability of each parent, including the distance
61 between them.

62 5. The willingness and ability of each parent to fulfill caregiving functions, as well as the
63 history of caregiving functions provided by each parent. Caregiving functions are tasks that
64 involve direct interaction with the child or arranging and supervising the interaction and care
65 provided by others.

66 6. Any special needs of the child, including but not limited to the child’s developmental,
67 emotional, educational, medical and social needs, and the ability of each parent to meet those
68 needs.

69 7. Whether a parent has inflicted physical, emotional or psychological abuse on the other
70 parent or child, including but not limited to, whether a parent has sexually assaulted or engaged
71 in a pattern or serious incident of abuse against the other parent or a child.

72 8. Whether a continuing relationship with the other parent may endanger the health,
73 safety or welfare of either the parent or the child.

74 9. Whether a parent’s abuse of drugs, alcohol or another substance interferes with that
75 parent’s ability to properly care for the child or exposes the child to physical or emotional harm
76 or the risk of physical or emotional harm.

77 10. Whether or not the child’s present or past living conditions adversely affect the
78 child’s physical, mental, moral or emotional health.

79 11. Whether there has been a lack of a meaningful relationship between a parent and the
80 child, and the reasons for any estrangement from the child.

81 12. The presence of siblings or other household members, and the parent’s and the
82 child’s relationships with those siblings and other household members.

83 13. A parent’s incarceration.

84 14. A parent’s involving or attempting to involve the child in the parents’ dispute through
85 manipulation or coercive behavior; a parent’s obstructing or impeding the other parent’s
86 reasonable communication, cooperation, parenting time, or shared decision-making or attempting
87 to do so without reasonable cause or; a parent’s interference with the other parent’s access to the
88 child, absent a reasonable, good-faith belief as to protecting the child, parent or household
89 member from physical or severe or persistent emotional harm by the other parent, and subject to
90 judicial findings as to any such reasonable, good-faith belief.

91 15. A parent’s conviction for a child-related sexual offense.

92 16. Any other additional factors that the court deems relevant.

93 E. 1. A parenting plan shall be incorporated into any order, separation agreement or
94 judgment concerning a minor child. Further, a proposed parenting plan shall be filed

95 simultaneously with any request that an order or judgment pursuant to this section be issued or at
96 such other time as permitted by the court.

97 2. A parenting plan shall include the following as applicable:

98 a. Decision-making responsibilities, which may detail provisions for consultation
99 between and notice to parents;

100 b. Residential responsibilities;

101 c. Legal residence of a child for school enrollment;

102 d. Parenting time schedule, which may detail the following:

103 i. Weekday parenting time with the child;

104 ii. Weekend parenting time with the child, including holidays and school in-service days
105 preceding or following weekends;

106 iii. Holidays, school vacations, birthdays and summer and such other vacation planning;

107 iv. Child's extracurricular and school activities;

108 v. Transportation and exchange of the child; and

109 vi. Process for periodic changes to the schedule;

110 vii. Information sharing and access, including telephone and electronic access;

111 viii. Notice and protocols as to travel with the child;

112 ix. Relocation of a parent within the Commonwealth of Massachusetts;

- 113 x.Safety of the child;
- 114 xi.Safety of each parent;
- 115 xii.Nondisclosure of a child's or parent's address on any academic or health record if
- 116 necessary to ensure his or her health, safety or welfare;
- 117 xiii.Procedure for review of the plan; and
- 118 xiv.Methods for resolving disputes.

119 3. A parenting plan may also include other provisions that further a child's best interest,
120 as well as provisions which address foreseeable changes in a child's or parent's circumstances.

121 F. Upon a finding of contempt for noncompliance with a parenting plan, as additional
122 remedies to those provided for in section 34A of chapter 215, the court may order any of the
123 following:

- 124 1. Adjustment of the parenting plan as informed by any such failure of a parent to comply
- 125 with the parenting plan;
- 126 2. Attendance at an appropriate parenting education course;
- 127 3. Award of counsel fees, costs and expenses; or
- 128 4. Reimbursement for any of the following incurred as a result of the other parent's
- 129 failure to comply with the parenting plan:
 - 130 a. reasonable child care and related expenses;
 - 131 b. reasonable travel and related expenses; or

132 c. lost wages.

133 G. The entry of an order or judgment relative to the minor children shall not negate or
134 impede the ability of either parent to have access to the academic, medical, hospital, or other
135 health records of the child, as either parent would have had if the order had not been entered;
136 provided, however, that if a court has issued an order to vacate against a parent or an order
137 prohibiting the parents from imposing any restraint upon the personal liberty of the other parent
138 or if nondisclosure of the present or prior address of the child or party is necessary to ensure the
139 health, safety, or welfare of such a child or party, the court may order that any part of such record
140 pertaining to such address shall not be disclosed to such parent.

141 SECTION 3. Section 31A of said chapter 208 of the General Laws, as so appearing, is
142 hereby amended by striking out, in lines 20 to 21, inclusive, the words “sole custody, shared
143 legal custody or shared physical custody,” and inserting in place thereof the following words:-
144 sole decision making responsibility and sole residential responsibility, shared decision making
145 responsibility or shared residential responsibility.

146 SECTION 4. Said section 31A of said chapter 208 of the General Laws, as so appearing,
147 is hereby further amended by striking out, in lines 44, 53, 55, 56 and 59, the word “visitation”
148 and inserting in place thereof the following words:- parenting time.

149 SECTION 5. Section 38 of chapter 209 of the General Laws, as so appearing, is hereby
150 amended by striking out, in lines 20 to 21, inclusive, the words “sole custody, shared legal
151 custody, or shared physical custody” and inserting in place thereof the following words:- sole
152 decision making responsibility and sole residential responsibility, shared decision making
153 responsibility or shared residential responsibility.

154 SECTION 6. Said section 38 of said chapter 209 of the General Laws, as so appearing, is
155 hereby further amended by striking out, in lines 44, 53, 55, 56, and 59 the word “visitation” and
156 inserting in place thereof the following words:- parenting time.

157 SECTION 7. Section 3 of chapter 209A of the General Laws, as appearing in the 2014
158 Official Edition, is hereby amended by striking out, in lines 24 to 25, inclusive, the words “sole
159 custody, shared legal custody or shared physical custody” and inserting in place thereof the
160 following words:- sole decision making responsibility and sole residential responsibility, shared
161 decision making responsibility or shared residential responsibility.

162 SECTION 8. Said section 3 of said chapter 209A of the General Laws, as so appearing, is
163 hereby further amended by striking out, in lines 48, 57, 59, 60, 61 and 63 the word “visitation”
164 and inserting in place thereof the following words:- parenting time.

165 SECTION 9. Section 1 of chapter 209C of the General Laws, as appearing in the 2014
166 Official Edition, is hereby amended by striking out, in line 9, the words “visitation rights” and
167 inserting in place thereof the following words:- parenting time.

168 SECTION 10. Section 2 of said chapter 209C, as so appearing, is hereby amended by
169 striking out, in line 25, the words “visitation rights” and inserting in place thereof the following
170 words:- parenting time.

171 SECTION 11. Section 4 of said chapter 209C, as so appearing, is hereby amended by
172 striking out, in line 2, the word “visitation” and inserting in place thereof the following words:-
173 parenting time.

174 SECTION 12. Section 5 of said chapter 209C, as so appearing, is hereby amended by
175 striking out, in lines 2,47, 59, 63 and 64 the word “visitation” and inserting in place thereof the
176 following words:- parenting time.

177 SECTION 13. Section 7 of said chapter 209C as so appearing, is hereby amended by
178 striking out, in line 4, the word “visitation” and inserting in place thereof the following words:-
179 parenting time.

180 SECTION 14. Section 9 of said chapter 209C, as so appearing, is hereby amended by
181 striking out, in line 68, the word “visitation” and inserting in place thereof the following words:-
182 parenting time.

183 SECTION 15. Section 10 of said chapter 209C of the General Laws, as so appearing, is
184 hereby amended by striking out, in lines 60 to 61, inclusive, the words “sole custody, shared
185 legal custody, or shared physical custody” and inserting in place thereof the following words:-
186 sole decision making responsibility and sole residential responsibility, shared decision making
187 responsibility or shared residential responsibility.

188 SECTION 16. Said section 10 of said chapter 209C, as so appearing, is hereby further
189 amended by striking out, in lines 84, 89, 93, 95, 96 and 99 the word “visitation” and inserting in
190 place thereof, in each instance, the following words:- parenting time.

191 SECTION 17. Section 11 of said chapter 209C, as so appearing, is hereby amended by
192 striking out, in lines 15, 27, 61, 64, 70 and 72, the word “visitation” and inserting in place
193 thereof, in each instance, the following words:- parenting time.

194 SECTION 18. Section 15 of said chapter 209C, as so appearing, is hereby amended by
195 striking out, in line 14, the word “visitation” and inserting in place thereof the following words:-
196 parenting time.

197 SECTION 19. Section 20 of said chapter 209C, as so appearing, is hereby amended by
198 striking out, in lines 4 and 5, the word “visitation” and inserting in place thereof the following
199 words:- parenting time.

200 SECTION 20. Section 23 of said chapter 209C, as so appearing, is hereby amended by
201 striking out, in line 3, the word “visitation” and inserting in place thereof the following words:-
202 parenting time.

203 SECTION 21. Section 40 of chapter 262 of the General Laws, as appearing in the 2014
204 Official Edition, is hereby amended by striking out, in lines 48 and 51 the word “visitation” and
205 inserting in place thereof the following words:- parenting time.