

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Harold P. Naughton, Jr.

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 passage of the accompanying bill:

An Act relative to the modification of custody orders .

PETITION OF:

NAME:

Harold P. Naughton, Jr.

DISTRICT/ADDRESS:

12th Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE MODIFICATION OF CUSTODY ORDERS .

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 18 of chapter 207 of the General Laws, as appearing in the 2006 Official Edition is
2 hereby amended by adding the following paragraph:-

3 If a motion for change of custody is filed during the time a parent is in active military duty, the
4 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
5 order, that changes the child's placement that existed on the date the parent was called to active
6 military duty, except the court may enter a temporary custody order if there is clear and convincing
7 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
8 court shall reinstate the custody order in effect immediately preceding that period of active military
9 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
10 shall not consider a parent's absence due to that military duty in a best interest of the child
11 determination.

12 SECTION 2. Section 19 of chapter 208 of the General Laws, as so appearing, is hereby amended by
13 adding the following paragraph:-

14 If a motion for change of custody is filed during the time a parent is in active military duty, the
15 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
16 order, that changes the child's placement that existed on the date the parent was called to active
17 military duty, except the court may enter a temporary custody order if there is clear and convincing
18 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
19 court shall reinstate the custody order in effect immediately preceding that period of active military
20 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
21 shall not consider a parent's absence due to that military duty in a best interest of the child
22 determination.

23 SECTION 3. Section 20 of said chapter 208, as so appearing, is hereby amended by adding the following
24 paragraph:-

25 If a motion for change of custody is filed during the time a parent is in active military duty, the
26 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
27 order, that changes the child's placement that existed on the date the parent was called to active
28 military duty, except the court may enter a temporary custody order if there is clear and convincing
29 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
30 court shall reinstate the custody order in effect immediately preceding that period of active military
31 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
32 shall not consider a parent's absence due to that military duty in a best interest of the child
33 determination.

34 SECTION 4. Section 20A of said chapter 208, as so appearing, is hereby amended by adding the
35 following paragraph:-

36 If a motion for change of custody is filed during the time a parent is in active military duty, the
37 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
38 order, that changes the child's placement that existed on the date the parent was called to active
39 military duty, except the court may enter a temporary custody order if there is clear and convincing
40 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
41 court shall reinstate the custody order in effect immediately preceding that period of active military
42 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
43 shall not consider a parent's absence due to that military duty in a best interest of the child
44 determination.

45 SECTION 5. Section 28 of said chapter 208, as so appearing, is hereby amended by adding the following
46 paragraph:-

47 If a motion for change of custody is filed during the time a parent is in active military duty, the
48 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
49 order, that changes the child's placement that existed on the date the parent was called to active
50 military duty, except the court may enter a temporary custody order if there is clear and convincing
51 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
52 court shall reinstate the custody order in effect immediately preceding that period of active military
53 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
54 shall not consider a parent's absence due to that military duty in a best interest of the child
55 determination.

56 SECTION 6. Section 28A of said chapter 208, as so appearing, is hereby amended by adding the
57 following paragraph:-

58 If a motion for change of custody is filed during the time a parent is in active military duty, the
59 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
60 order, that changes the child's placement that existed on the date the parent was called to active
61 military duty, except the court may enter a temporary custody order if there is clear and convincing
62 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
63 court shall reinstate the custody order in effect immediately preceding that period of active military
64 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
65 shall not consider a parent's absence due to that military duty in a best interest of the child
66 determination.

67 SECTION 7. Section 29 of said chapter 208, as so appearing, is hereby amended by adding the following
68 paragraph:-

69 If a motion for change of custody is filed during the time a parent is in active military duty, the
70 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
71 order, that changes the child's placement that existed on the date the parent was called to active
72 military duty, except the court may enter a temporary custody order if there is clear and convincing
73 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
74 court shall reinstate the custody order in effect immediately preceding that period of active military
75 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
76 shall not consider a parent's absence due to that military duty in a best interest of the child
77 determination.

78 SECTION 8. Section 32 of chapter 209 of the General Laws, as so appearing, is hereby amended by
79 adding the following paragraph:-

80 If a motion for change of custody is filed during the time a parent is in active military duty, the
81 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
82 order, that changes the child's placement that existed on the date the parent was called to active
83 military duty, except the court may enter a temporary custody order if there is clear and convincing
84 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
85 court shall reinstate the custody order in effect immediately preceding that period of active military
86 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
87 shall not consider a parent's absence due to that military duty in a best interest of the child
88 determination.

89 SECTION 9. Section 37 of said chapter 209, as so appearing, is hereby amended by adding the following
90 paragraph:-

91 If a motion for change of custody is filed during the time a parent is in active military duty, the
92 court shall not enter an order modifying or amending a previous judgment or order, or issue a new
93 order, that changes the child's placement that existed on the date the parent was called to active
94 military duty, except the court may enter a temporary custody order if there is clear and convincing
95 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
96 court shall reinstate the custody order in effect immediately preceding that period of active military
97 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court
98 shall not consider a parent's absence due to that military duty in a best interest of the child
99 determination.

100 SECTION 10. Section 2 of chapter 209B of the General Laws is hereby amended by striking out
101 subsection (e), as so appearing, and inserting in place thereof the following subsection:-

102 (e) If a court of another state has made a custody determination in substantial conformity with
103 this chapter, a court of the commonwealth shall not modify that determination unless (1) it appears to
104 the court of the commonwealth that the court which made the custody determination does not now
105 have jurisdiction under jurisdictional prerequisites substantially in accordance with this chapter or that
106 such court has declined to assume jurisdiction to modify its determination, (2) a court of the
107 commonwealth now has jurisdiction pursuant to this chapter and (3) if a motion for change of custody is
108 filed during the time a parent is in active military duty, the court shall not enter an order modifying or
109 amending a previous judgment or order, or issue a new order, that changes the child's placement that
110 existed on the date the parent was called to active military duty, except the court may enter a
111 temporary custody order if there is clear and convincing evidence that it is in the best interest of the
112 child. Upon a parent's return from active military duty, the court shall reinstate the custody order in
113 effect immediately preceding that period of active military duty. If a motion for change of custody is
114 filed after a parent returns from active military duty, the court shall not consider a parent's absence due
115 to that military duty in a best interest of the child determination.

116 SECTION 11. Section 3 of chapter 209C of the General Laws, as so appearing, is hereby amended by
117 adding the following subsection:-

118 (f) If a motion for change of custody is filed during the time a parent is in active military duty,
119 the court shall not enter an order modifying or amending a previous judgment or order, or issue a new
120 order, that changes the child's placement that existed on the date the parent was called to active
121 military duty, except the court may enter a temporary custody order if there is clear and convincing
122 evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the
123 court shall reinstate the custody order in effect immediately preceding that period of active military
124 duty. If a motion for change of custody is filed after a parent returns from active military duty, the court

125 shall not consider a parent's absence due to that military duty in a best interest of the child

126 determination.

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