

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Steven M. Walsh

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 determination of alimony payments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
F. Jay Barrows	1st Bristol
Jay R. Kaufman	15th Middlesex
Michael J. Rodrigues	8th Bristol
Frank I. Smizik	15th Norfolk
Joyce A. Spiliotis	12th Essex
Steven M. Walsh	11th Essex
Bradford R. Hill	4th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1567 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE DETERMINATION OF ALIMONY PAYMENTS.

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 34 of Chapter 208 of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended in the third sentence by striking the words:

3 “or in fixing the nature and value of the property, if any, to be so assigned, the court, after
4 hearing the witnesses, if any, of each party, shall consider the length of the marriage, the
5 conduct of the parties during the marriage, the age, health, station, occupation, amount and
6 sources of income, vocational skills, employability, estate, liabilities and needs of each of the
7 parties and the opportunity of each for future acquisition of capital assets and income.”;

8 And by inserting in place thereof the following words:

9 “the court shall consider all of the following circumstances:

- 10 (a) The extent to which the earning capacity of each party is sufficient, together with the
11 unearned income described in (h) below, to maintain the preponderance of the standard of
12 living established during the marriage and upon the date of separation, taking into account
13 the marketable skills of whichever party may not then exhibit such sufficient earning
14 capacity and the time and expense of employment counseling and training required to
15 further develop such skills or to acquire other, more marketable skills or employment.
16 (b) The willingness and diligence of the party not then exhibiting such earning capacity to seek
17 the employment counseling and training described in (a) above.

- 18 (c) The goal that any party needing alimony shall be self-supporting within a reasonable period
19 of time. Such reasonable period of time shall be one-half of the length of the marriage. The
20 length of the marriage is the period commencing upon the date of the marriage and ending
21 upon the date of separation, deducting therefrom any period(s) of physical separation
22 during the marriage. Such reasonable period of time, or duration of alimony, shall not
23 exceed twelve years except only when the supported party shall have custody (sole physical
24 or joint (or "shared") physical) of one or more children of the marriage not then having
25 attained the age of sixteen years as of such twelfth year, in which case alimony shall
26 continue until such one or more children have attained such age.
- 27 (d) All alimony due for more than five years shall, beginning with the commencement of the
28 second half of such period of time of alimony and continuing each twelve month period
29 thereafter during such second half, decline by ten percent after the application of (e) below
30 and except only when either: 1) the supported party shall then have custody (sole physical
31 or joint (or "shared") physical) of one or more children of the marriage then not having
32 attained the age of sixteen years; or 2) the court finds the supported party to be incapable,
33 both physically and mentally, of any gainful employment.
- 34 (e) The sole and exclusive reason or cause warranting an increase in the amount of alimony
35 shall be the percentage rise, if any, during the prior calendar year in the Consumer Product
36 Index, as published by the United States Department of Labor, such increase shall
37 commence at the beginning of the calendar year and shall equal such rise provided that the
38 earned income of the supporting party has increased during such prior calendar year by
39 more than three times such percentage increase in such Index.
- 40 (f) The obligation of the supporting party to pay alimony shall, without exception, cease upon
41 such party attaining retirement age, as defined in Title II, section 216, of the Social Security
42 Act (42 USC 416).
- 43 (g) The ability of the supporting party to pay alimony, taking into account such party's actual
44 earned income during the prior calendar year, the average of the actual earned income
45 during the three prior calendar years, the cost to maintain the preponderance of the
46 standard of living defined in (a) above, the obligation to pay child support, and the impact
47 on such earned income should the supporting party have custody (sole physical or joint (or
48 "shared") physical) of one or more children of the marriage.
- 49 (h) The unearned income generated by the marital assets owned by the supported party
50 following the divorce.
- 51 (i) The duration of the marriage.
- 52 (j) The age and health of the parties
- 53 (k) The extent, if any, to which the supported party contributed to the attainment by the
54 supporting party of an education, training or license.
- 55 (l) There shall be a rebuttable presumption of substantially decreased need for alimony if the
56 supported party is cohabiting with another adult.
- 57 (m) The income and assets of any adult cohabiting with the supporting party, whether or
58 not the supporting party is married to such adult, shall not be considered when
59 determining or modifying alimony.

60 (n)All alimony orders and agreements in effect as of the date hereof shall be amended by
61 the court, within eighteen months of such date, to be in substantial compliance
62 herewith excepting only that the maximum duration of alimony following such date
63 shall be the greater of: 1) three years; or 2) three years, plus the reasonable period of
64 time, as defined in (c) above, less the number of years alimony has been paid prior to
65 such date.

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