

HOUSE No. 1699

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 passage of the accompanying bill:

An Act Relative to Shared Custody.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard J. Ross	9th Norfolk
Todd M. Smola	1st Hampden
Cleon H. Turner	1st Barnstable
Alice K. Wolf	25th Middlesex
Scott P. Brown	Norfolk, Bristol and Middlesex
Colleen M. Garry	36th Middlesex
Bradley H. Jones, Jr.	20th Middlesex
F. Jay Barrows	1st Bristol
Carlo P. Basile	1st Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1703 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 31 of Chapter 208 of the General Laws, as appearing in the 2004 Official Edition, is hereby
2 amended by striking out the second to the ninth paragraph, and inserting in place thereof the following three
3 paragraphs: -

4 To ensure minor children of frequent and continuing contact and a meaningful relationship with both
5 parents after the parents have separated and divorced, it becomes necessary to encourage parents to share in the
6 rights and responsibilities of child care and rearing. Primary considerations in awarding custody shall be given to
7 both parents jointly in order to secure the best interest of the children by providing continuation of parent-child
8 relationships. It is therefore the presumption of the courts that in most cases shared custody should be considered
9 paramount to ensure the happiness and welfare of the children.

10 In all separation and divorce proceeding involving minor children, it shall be a presumption of the court
11 that both parents have an inalienable right to share temporary and final legal as well as physical custody of the
12 children unless one or both parents (1) are proven to be unfit to such an extent and in such a manner as to cause
13 immediate physical or emotional danger or damages to the children, (2) abandon the children, or (3) voluntary
14 relinquish custody. An agreement signed by both parents defining the shared arrangements shall be the order of the
15 courts, provided the parents have been apprised of their custody rights or unless clear and convincing findings
16 indicate that such an order would not be in the best interest of their children.

17 Only after the parents have attempted and failed to reach an agreement on the shared living arrangements of the
18 children shall the court determine the shared arrangements. The children shall also have the right to reside and spend
19 an equal amount of time with each parent, provided this sharing arrangement does not interfere nor disrupt the
20 school term. If equal time is neither practical nor possible, the right of one parent to a minimum guaranteed amount
21 of time per year with the children shall be established and protected by the courts.