HOUSE DOCKET, NO. 3338 FILED ON: 1/18/2013

HOUSE . . . . . No. 1688

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel B. Winslow

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:

An Act relative to shared custody.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Daniel B. Winslow	*9th Norfolk*
Robert LeClair	*369 Franklin Street Wrentham, MA 02093*

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By Mr. Winslow of Norfolk, a petition (accompanied by bill, House, No. 1688) of Daniel B. Winslow and Robert LeClair relative to shared custody of children after the parents have separated and divorced. The Judiciary.

The Commonwealth of Massachusetts

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:

SECTION 1: Section 31 of chapter 208 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the second through the ninth paragraphs, and inserting in place thereof the following 3 paragraphs:-

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

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

Only after the parents have attempted and failed to reach an agreement on the shared living arrangements of the children shall the court determine the shared arrangements. The children shall also have the right to reside and spend an equal amount of time with each parent, provided this sharing arrangement does not interfere nor disrupt the school term. If equal

23 time is neither practical nor possible, the right of one parent to a minimum guaranteed amount of
24 time per year with the children shall be established and protected by the courts