SENATE DOCKET, NO. 833 FILED ON: 1/20/2011

SENATE . . . . . No. 712

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

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 equitable divorce proceedings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Cynthia S. Creem	
	☐ *[District]*
	☐

SENATE DOCKET, NO. 833 FILED ON: 1/20/2011

SENATE . . . . . No. 712

By Ms. Creem, a petition (accompanied by bill, Senate, No. 712) of Cynthia S. Creem for legislation relative to divorce procedures and judgments in certain Probate Court decisions. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1563* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to equitable divorce proceedings.

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. Chapter 208 of the General Laws is hereby amended by striking out the third paragraph of Section 1A and inserting in place thereof the following paragraph:-

If the finding is in the affirmative the court shall approve the agreement and enter a Judgment of Divorce Nisi.

SECTION 2. Section 1B of Chapter 208 of the General Laws is hereby amended by striking out section lB and inserting in place thereof the following section:-

Section 1B. Irretrievable breakdown of marriage; commencement of action; waiting period; unaccompanied complaint procedure.

An act for divorce on the ground of an irretrievable breakdown of the marriage may be commenced by the filing of the complaint unaccompanied by the signed statement and dissolution agreement the parties require under section 1A.

No earlier than thirty days after the filing of the complaint there shall be a hearing and the court may enter a judgment of divorce Nisi if the court finds that there has existed, for the period following the filing of the complaint and up to the date of the hearing, a continuing irretrievable breakdown of the marriage.

16 Notwithstanding the foregoing, at the election of the court hereunder, the
17 aforesaid thirty day period may be waived to alloy the consolidation for the purposes of hearing a
18 complaint commence under this section with a complaint for divorce commenced by the
19 opposing party under section 1.

20 The filing of a complaint for divorce under this section shall not affect the
21 ability of the defendant to obtain a hearing on a complaint for divorce filed under section 1, even
22 if the aforesaid thirty day period has not yet expired.

23 Said thirty day period shall be determined from the filing of a complaint for
24 divorce. In the event that a complaint for divorce is commenced in accordance with the
25 provisions of section 1A or is for a cause set forth under section 1, and said complaint is later
26 amended to set forth the ground established in this section, the thirty day period herein set forth
27 shall be computed from the date of the filing of said complaint.

28 As part of the enter of the judgment of divorce Nisi, appropriate orders shall be
29 made by the court with respect to custody, support and maintenance of children, and, in
30 accordance with the provisions of section 34, for alimony and for disposition of marital property.

31 Nothing in the foregoing shall prevent the court, at any time prior to the
32 judgment, from making temporary orders for custody, support and maintenance or such other
33 temporary orders it deems appropriate, including referral of the parties and the children, if any,
34 for marriage or family counseling. Prior to the entry of judgment under this section, in the event
35 that the parties file the statement and dissolution agreement as required under said section 1A.

36 SECTION 3. Chapter 208 of the General Laws is hereby amended by striking
37 out section 21 and inserting in place thereof the following section:-

38 Section 21. Judgments of divorce shall in the first instance be judgments nisi,
39 and shall become absolute after the expiration of thirty days from the entry thereof, unless the
40 court within said period, for sufficient cause, upon application of any party to the action,
41 otherwise orders. After the entry of a judgment nisi, the action shall not be dismissed or
42 discontinued on motion of either party except upon such terms, if any, as the court may order
43 after notice to the other party and a hearing, unless there has been filed with the court a
44 memorandum signed by both parties, wherein they agree to such disposition of the action.