

HOUSE No. 1626

By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty relative to divorce procedures and judgments in certain Probate Court decisions. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

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:

1 SECTION 1. Chapter 208 of the General Laws is hereby amended
2 by striking out the third paragraph of Section 1A and inserting in
3 place thereof the following paragraph:—
4 If the finding is in the affirmative the court shall approve the
5 agreement and enter a Judgment of Divorce Nisi.

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

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

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

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

15 Notwithstanding the foregoing, at the election of the court here-
16 under, the aforesaid thirty day period may be waived to allow the
17 consolidation for the purposes of hearing a complaint commence

18 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
21 affect the ability of the defendant to obtain a hearing on a complaint
22 for divorce filed under Section 1, even if the aforesaid thirty day
23 period has not yet expired.

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

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

35 Nothing in the foregoing shall prevent the court, at any time prior
36 to the judgment, from making temporary orders for custody, support
37 and maintenance or such other temporary orders it deems appro-
38 priate, including referral of the parties and the children, if any, for
39 marriage or family counseling. Prior to the entry of judgment under
40 this section, in the event that the parties file the statement and disso-
41 lution agreement as required under said Section 1A.

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

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