

**HOUSE . . . . . No. 1563**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Eugene L. O'Flaherty**

*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 equitable divorce proceedings.

PETITION OF:

NAME:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1626 OF .]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### 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 by striking out the  
2 third paragraph of Section 1A and inserting in place thereof the following paragraph:-

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

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

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

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

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

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

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

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

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

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

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

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