

**HOUSE . . . . . No. 02244**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Charles A. Murphy, (BY REQUEST)*

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*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 parenting.

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PETITION OF:

NAME:

*Charles A. Murphy*

DISTRICT/ADDRESS:

*21st Middlesex*

# HOUSE . . . . . No. 02244

By Mr. Murphy of Burlington (by request), a petition (accompanied by bill, House, No. 2244) of Murphy relative to the rights of parents in child custody proceedings Joint Committee on the Judiciary.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to shared parenting.

*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. Section 31 of Chapter 208 of the General Laws, as appearing in the most recent  
2 edition, is hereby amended by striking the sixth paragraph and inserting in place thereof the  
3 following paragraph:- “In making an order or judgement relative to the custody of children, the  
4 rights of the parents shall, in the absence of abuse or neglect, be held to be equal. Concomitant  
5 with the equal rights of parents is the right of the child(ren) to spend equal time with each  
6 parent.”

7 SECTION 2. Said section 31 is hereby further amended by striking the seventh paragraph and  
8 inserting in place thereof the following paragraph:- “Upon the filing of an action in accordance  
9 with the provisions of this section, section twenty-eight of this chapter, or section thirty-two of  
10 chapter two hundred and nine and until a judgement on the merits is rendered, absent clear and

11 convincing evidence of abuse or neglect, the parents shall have temporary shared legal and  
12 physical custody of any minor child of the marriage.”

13 SECTION 3. Said section 31 is hereby further amended by striking the eighth paragraph and  
14 inserting in place thereof the following paragraph:- “Fit parents by definition and by virtue of the  
15 natural, immutable bond they share with the child(ren), both define and act in the best interest of  
16 the child(ren). Absent clear and convincing evidence that either parent is unfit, each parent shall  
17 be presumed to be fit, and as such the court shall order temporary shared legal and physical  
18 custody of the child(ren).”

19 SECTION 4. Said section 31 is hereby further amended by striking the following paragraphs:-  
20 “If, despite the prior or current issuance of a restraining order against one parent pursuant to  
21 chapter two hundred and nine A, the court orders shared legal or physical custody either as a  
22 temporary order or at a trial on the merits, the court shall provide written findings to support such  
23 shared custody order.

24 There shall be no presumption either in favor of or against shared legal or physical custody at the  
25 time of the trial on the merits, except as provided for in section 31A.”

26 SECTION 5. Said section 31 is hereby further amended by striking the twelfth paragraph and  
27 inserting in place thereof the following paragraph:- “At the trial on the merits, the court shall  
28 consider the shared custody implementation plans submitted by the parties. In conjunction  
29 therewith, absent clear and convincing evidence that either parent is unfit, the court must accept  
30 the shared custody implementation plan submitted by the parties jointly. Absent a jointly  
31 submitted shared custody implementation plan, the court must accept the shared custody  
32 implementation plan submitted by either party.”

33 SECTION 6. Said section 31 is hereby further amended by striking the fourteenth paragraph  
34 and inserting in place thereof the following paragraph:- If shared physical custody is ordered, the  
35 judge shall at that time make a child support order, or revise its previous order, as appropriate to  
36 the circumstances.”

37 SECTION 7. Said section 31 is hereby further amended by striking the last paragraph and  
38 inserting in place thereof the following paragraph:- “Where the parents have reached an  
39 agreement providing for the custody of the children, the court shall enter an order in accordance  
40 with such agreement.”