

HOUSE No. 4034

The Commonwealth of Massachusetts

PRESENTED BY:

John V. Fernandes

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 adoption of the accompanying bill:

An Act reforming alimony in the Commonwealth.

PETITION OF:

NAME:

John V. Fernandes

DISTRICT/ADDRESS:

10th Worcester

HOUSE No. 4034

By Mr. Fernandes of Milford, a petition (subject to Joint Rule 12) of John V. Fernandes relative to the payment of support to a recipient spouse who is economically dependent. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act reforming alimony in the Commonwealth.

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 53 of chapter 208 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the word “order”, in line 24, the following
3 words:- ,except in cases where deviation applies pursuant to GL c.208 § 53(e).

4 SECTION 2. Chapter 124 of the Acts of 2011 is hereby amended by striking out section
5 4 and inserting in place thereof the following section:-

6 Section 4. (a) As used in this section the following terms shall, unless the context clearly
7 requires otherwise, have the following meanings:-

8 "Alimony", the payment of support from a spouse, who has the ability to pay, to a spouse
9 in need of support for a reasonable length of time, under a court order.

10 “Existing alimony judgment”, an order of a court to pay alimony entered by a court prior
11 to March 1, 2012.

12 “General term alimony”, the periodic payment of support to a recipient spouse who is
13 economically dependent.

14 “Payor” a spouse required by order of a court to pay alimony or general term alimony.

15 “Recipient”, a spouse receiving by order of a court alimony or general term alimony.

16 (b) Existing alimony judgments shall be general term alimony as that term is defined in
17 section 48 of chapter 208 of the General Laws.

18 (c) Unless otherwise provided in this section, existing alimony judgments shall terminate
19 pursuant to the terms of such existing alimony judgment or pursuant to an order of modification
20 entered by a court.

21 (d) An existing alimony judgment which has exceeded the durational limits established
22 by said subsection (b) of said section 49 of said chapter 208 may be modified upon the filing of a
23 complaint for modification and the court shall order modification unless the court finds that
24 deviation is necessary under section 53(e) of said chapter 208.

25 (e) A payor of alimony paying alimony pursuant to an existing alimony judgment may
26 file a complaint for modification of the existing alimony judgment if the recipient is determined
27 to be a cohabitating pursuant to subsection (d) of said section 49 of said chapter 208. A court
28 considering a complaint for modification of an existing alimony judgment pursuant to this
29 subsection shall consider the recipient’s cohabitation a material change in circumstances when
30 ruling on the complaint for modification.

31 (f) A payor of alimony paying alimony pursuant to an existing alimony judgment may
32 file a complaint for modification of the existing alimony judgment if the payor has reached full

33 retirement age pursuant to subsection (f) of said section 49 of said chapter 208. A court
34 considering a complaint for modification of an existing alimony judgment pursuant to this
35 subsection shall consider the payor's reaching full retirement age a material change in
36 circumstances when ruling on the complaint for modification.

37 (g) No existing alimony judgment where the parties have agreed in writing that the
38 existing alimony judgment is not modifiable shall be modified by a court without the consent of
39 both parties.