
By Mr. Atkins, a petition (accompanied by bill, Senate, No. 2007) of Chester G. Atkins for legislation to improve the collection of child support. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT TO IMPROVE THE COLLECTION OF CHILD SUPPORT.

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 6 of the General Laws is hereby
2 amended by inserting after section 11 the following sec-
3 tion: —

4 *Section 11A.* There is hereby established, subject to appro-
5 priation, a reserve fund in the office of the governor for the
6 purpose of the interstate rendition of persons accused or con-
7 victed of failing to support their children, or failing to obey a
8 court order requiring support of their children, or for going
9 into another state for the purpose of avoiding child support
10 obligations as provided for in chapter two hundred and sev-
11 enty-three and chapter two hundred and seventy-three B. The
12 district attorneys for the district in which the crimes allegedly
13 occurred are hereby authorized to apply for a requisition for
14 the return of such accused or convicted persons in accordance
15 with sections eleven to twenty R, inclusive, of chapter two
16 hundred and seventy-six.

1 SECTION 2. Section 17 of chapter 6 of the General Laws, as
2 most recently amended by section 286 of chapter 351 of the
3 acts of 1981, is hereby amended by inserting after the words
4 "the nutrition board," the following words: — the child sup-
5 port enforcement commission,

1 SECTION 3. Chapter 6 of the General Laws is hereby amend-
2 ed by inserting after section 189 the following section: —

3 *Section 190.* There shall be a child support enforcement
4 commission which shall monitor the provision of child sup-

5 port within the commonwealth, shall study the various child
6 support mechanisms within the department of public welfare,
7 the trial courts, and the probation department and shall rec-
8 ommend appropriate legislative and administrative changes to
9 the child support system. The commission shall consist of the
10 director of the governor's office of human resources, or his
11 designee, who shall serve as chairman, the secretary of the
12 executive office of human services, or his designee, the com-
13 missioner of public welfare, or his designee, the administra-
14 tive justice of the probate and family court department of the
15 trial court, or his designee, the administrative justice of the
16 district court, or his designee, the administrative justice of
17 the Boston municipal court, or his designee, the commissioner
18 of probation, or his designee, and eight members appointed
19 by the governor; two of whom shall be district attorneys; one
20 of whom shall represent the Massachusetts Bar Association;
21 one of whom shall represent another bar association in the
22 commonwealth; one of whom shall represent a low income
23 advocacy group; one of whom shall represent women's advo-
24 cacy groups; one of whom shall be a parent with child support
25 obligations; and one of whom shall be an employee of the of-
26 fice of child support enforcement of the United States depart-
27 ment of health and human services. The commission shall de-
28 velop specific recommendations in the areas of appropriate
29 amounts of support orders, of mandatory or presumptive
30 amounts of support orders based on family need and of stream-
31 lining the court system to promote enforcement of child sup-
32 port orders.

1 SECTION 4. Chapter 18 of the General Laws is hereby
2 amended by striking out section 21, as most recently amended
3 by chapter 925 of the acts of 1977, and inserting in place
4 thereof the following section: —

5 *Section 21.* (a) The department shall act as a single and
6 separate organizational unit under Title IV-D of the Social
7 Security Act, as amended, and is empowered to exercise all
8 the functions required of a IV-D agency by federal law and
9 regulations for the implementation of a state program of child
10 support enforcement. Nothing in this section is intended to
11 conflict with any provision of the federal law or to result in

12 the loss of federal funds.

13 (b) The department shall be subrogated to the rights to
14 support and maintenance of any welfare recipient to the ex-
15 tent of any payments made by the department to such re-
16 cipient.

17 (c) The first priority of the department pursuant to this
18 section shall be the collection of sufficient support payments
19 on behalf of recipients and applicants to enable such recipients
20 and applicants to live independently of public assistance. The
21 department shall take such steps as are necessary to ensure
22 that when it terminates aid under this chapter as a result of
23 collecting monthly support monies in excess of the amount
24 paid monthly to the assistance unit, at least one half of the
25 monthly support monies paid on behalf of any members of the
26 assistance unit shall be available to them no later than the date
27 the unit would otherwise have received its next check due un-
28 der this chapter, and that any agency or division of the Com-
29 monwealth which was collecting such support payments shall
30 timely forward them to the spouse or child or children on
31 whose behalf they are paid. At the same time that the de-
32 partment sends notice of its intention to terminate assistance
33 due to such collection of excess monthly support, the depart-
34 ment shall also send notice to the assistance unit of its contin-
35 uing eligibility to use the services of the IV-D agency without
36 fee if the custodian of the child or children so desires and ap-
37 plies in writing therefor. Within sixty days of the date of such
38 termination, the department shall send a report to the assist-
39 ance unit of all services which the IV-D agency had provided
40 in establishing paternity or establishing or enforcing support
41 to date of proposed termination and including an accounting
42 of the amount and date of receipt of all monies collected by the
43 department pursuant to the assignment of support rights re-
44 quired by this section.

45 (d) In enforcing its assignment rights under this section,
46 in an action either in the name of the recipient or in its own
47 name, the department shall serve notice to the recipient of
48 all proceedings in such an action and may use any method
49 available to a private party to collect support, including, but
50 not limited to, the following methods: —

51 (1) If no probate court order is outstanding, the depart-
52 ment may seek to obtain a probate court order on any out-
53 standing complaint for divorce, paternity, or support.

54 (2) The department may seek to obtain a modification of a
55 probate court order on any outstanding complaint for or judg-
56 ment of divorce, paternity, or support.

57 (3) The department may institute contempt proceedings un-
58 der the provisions of section thirty-four A of chapter two hun-
59 dred fifteen to compel compliance with a probate court or-
60 der.

61 (4) The department may appear as a friend of the court in
62 suits for divorce, paternity, or support or proceedings supple-
63 mental thereto, when either or both parties thereto are receiv-
64 ing public assistance, for the purpose of advising the court as
65 to the financial interest of the commonwealth therein; or

66 (5) The department may apply for a complaint under chap-
67 ter two hundred seventy-three and chapter two hundred and
68 seventy-three B if none of the options listed in clauses (1) to
69 (4), inclusive of this paragraph are likely to be effective.

70 (e) Before the department may deny, terminate or reduce
71 aid to any applicant or recipient of public assistance for fail-
72 ing to cooperate with enforcement of child support, the de-
73 partment must provide notice of what specific unreasonable
74 acts or omissions, material to the establishment of paternity
75 or establishment or enforcement of a support obligation, the
76 applicant's or recipient's alleged failure to cooperate consisted;
77 and, if the applicant or recipient requests a hearing pursuant
78 to section sixteen of chapter eighteen to contest such proposal
79 denial, reduction or termination, the department has the bur-
80 den to prove that the applicant or recipient did commit such
81 material unreasonable acts or omissions.

82 (f) Any debt owed by any person to the department in ac-
83 cordance with this section and which such person has volun-
84 tarily acknowledged such debt and agreed to pay according
85 to a schedule or which such person has been ordered to pay
86 to the department by a court of competent jurisdiction shall
87 be due on the date provided for in such schedule or order. Any
88 amount of such debt which is not paid within thirty days of
89 such due date shall be subject to an interest charge at the

90 rate of twelve percent per annum. In addition, to this charge,
91 any such amount which has been ordered by a court of com-
92 petent jurisdiction and which is not paid within thirty days
93 of such due date shall be subject to a penalty of one percent
94 of such amount for each month or fraction thereof during
95 which such failure to pay continues to a total not exceeding,
96 in the aggregate, twenty-five percent of said amount.

1 SECTION 5. Chapter 18 of the General Laws is hereby
2 amended by inserting after section 21 the following sec-
3 tion: —

4 *Section 21A.* In its function as the separate organizational
5 unit under Title IV-D of the Social Security Act, the depart-
6 ment shall establish rules and procedures to ensure that per-
7 sons seeking to enforce child support obligations other than
8 those receiving benefits under the program of aid to families
9 with dependent children receive assistance in locating absent
10 spouses or parents and in collecting child support owed to
11 them. Such assistance may be provided directly by the de-
12 partment, through agreements with courts, probation offices,
13 or other agencies, or by contracts with private agencies.

14 The department shall, with the assistance of the probate
15 family court departments and the district court department
16 of the trial court, establish a packet of materials, including
17 filing forms, which shall be made available to persons seeking
18 the enforcement of child support orders.

1 SECTION 6. The third paragraph of section 13 of chapter 46
2 of the General Laws, as most recently amended by section 10
3 of chapter 684 of the acts of 1981, is hereby further amended
4 by adding after the words "two hundred and seventy-three"
5 in lines four and seventeen the following words: — or two
6 hundred and nine C and chapter two hundred and seventy-
7 three B.

1 SECTION 7. The third paragraph of said section 13 of chap-
2 ter 46 of the General Laws is hereby further amended by add-
3 ing the following sentences: — Upon receipt of a certified copy
4 of a judgment establishing paternity under chapter two hun-
5 dred and nine C of chapter two hundred and seventy-three E

6 and a certified copy of a court order to issue a new birth certificate under that chapter, the clerk of the city or town where the child was born shall prepare a new birth certificate consistent with the findings of the court and shall substitute new certificate for the original certificate. The fact that paternity was established after the child's birth shall not be ascertainable from the new certificate but the actual place and date of birth shall be shown. The evidence upon which the new birth certificate was made and the original birth certificate shall be kept in a sealed and confidential file and shall be subject to inspection only upon the consent of the court and all interested parties.

1 SECTION 8. Chapter 62D of the General Laws is hereby amended by striking out section 1 and inserting in place thereof the following section: —

4 *Section 1.* As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings: —

7 "Claimant agency," the department of public welfare, in the exercise of its duty as the separate organization unit under Title IV-D of the Social Security Act to collect support owed to the department for past public assistance paid and to assist in the collection of child support not owed to the department, pursuant to sections twenty-one and twenty-one A of chapter eighteen and section three of chapter one hundred and eighteen.

15 "Debt", any liquidated sum for support purposes due and owing to persons for whom the claimant agency is required to provide enforcement services under state and federal law, whether or not there is an outstanding judgment for that sum.

20 "Debtor", any individual owing money for support payments to persons for whom the claimant agency is required to provide enforcement services under state and federal law, which obligation has not been adjudged satisfied by court order, set aside by court order, or discharged in bankruptcy.

25 "Department", the department of revenue.

26 "Refund", an individual's income tax refund from the commonwealth.

1 SECTION 9. Said chapter 62D is hereby further amended by
2 striking out section 3 and inserting in place thereof the follow-
3 ing section: —

4 *Section 3.* Subject to the limitations contained in this chap-
5 ter, the department shall, upon the request of the claimant
6 agency, render assistance in the collection of debts by the
7 claimant agency. This assistance shall be provided by setting
8 off refunds due the debtor from the department by the sum
9 certified by the claimant agency as due and owing.

10 Upon application of a person not receiving public assistance
11 but otherwise entitled to assistance in collecting support pay-
12 ments pursuant to state and federal law, the claimant agency
13 shall include the claim of such person for the debt with such
14 requests for assistance, provided that such debt shall have
15 arisen from a court order and under the jurisdiction of the
16 probation department. The claimant agency is authorized to
17 request sufficient information from such person as needed to
18 carry out the purposes of this chapter and to require such
19 person to certify the amount of such debt.

1 SECTION 10. Section 8 of said chapter 62D is hereby amend-
2 ed by inserting at the end thereof the following sentence: —

3 If the debt so determined is not owed to the claimant agency,
4 said agency shall, within seven days of the determination, for-
5 ward the amount from the escrow account to the person to
6 whom the debt is owed.

1 SECTION 11. Chapter 62E of the General Laws is hereby
2 amended by inserting after section 10 the following sec-
3 tion: —

4 *Section 11.* The commissioner, in cooperation with the de-
5 partment of public welfare, shall establish a program of wage
6 information sharing with other states. The commissioner is
7 hereby authorized to enter into reciprocal agreements with
8 other states to share lists of absent parents who owe support
9 payments to the department of public welfare. Such recipro-
10 cal agreements shall only be made with states which admin-
11 ister programs that are substantially similar to the wage re-
12 porting system. The wage information sharing program shall
13 apply only to states which have similar prohibitions and pen-

14 alties for disclosure of information as provided in this chapter
15 and only if such prohibitions and penalties shall apply to in-
16 formation which is transmitted by the commissioner or the
17 department of welfare to the other states. The prohibitions
18 and penalties imposed by section eight shall also apply to any
19 such information received from any other state under a recip-
20 rocal agreement.

1 SECTION 12. Section 7 of chapter 190 of the Geenal Laws,
2 as most recently amended by chapter 396 of the acts of 1980,
3 is hereby further amended by adding after the words "two
4 hundred and seventy-three" in the first sentence the follow-
5 ing words: — or chapter two hundred and seventy-three and
6 seventy-three B or chapter two hundred and nine C.

1 SECTION 13. The General Laws are hereby amended by in-
2 serting after chapter 209B the following chapter: —

3 CHAPTER 209C
4 CHILDREN BORN OUT OF WEDLOCK

5 *Section 1.* Every person is charged with the support of his
6 child born out of wedlock from its birth up to the age of eight-
7 een or where such child is domiciled in the home of a parent
8 and is principally dependent upon said parent for mainte-
9 nance, to age twenty-one. For the purpose of this section, the
10 term "child born out of wedlock" shall include instances
11 where the parents have intermarried, the father has acknowl-
12 edged in writing the paternity of such child, the man has been
13 adjudged the father by a court of competent jurisdiction, in-
14 cluding an adjudication in a proceeding hereunder, and the
15 child was begotten by a man other than the husband of a mar-
16 ried woman. Each person charged with support under this
17 section shall be required to furnish support according to his
18 financial ability.

19 *Section 2.* There shall be three causes of action under this
20 chapter: (a) an action to establish paternity of a child born
21 out of wedlock; (b) an action to obtain support against either
22 parent of such a child; and (c) an action to determine which
23 parent is entitled to custody of such child. Any of these ac-
24 tions may be joined together at the commencement of the ac-

25 tion or at any subsequent time. Such joinder may be allowed
26 by the court on its own motion or on the motion of any party,
27 including the department of public welfare. When such ac-
28 tions are joined, the court shall issue separate and distinct
29 judgments on the issues of custody, paternity and support.
30 Any interested party may bring an action to establish matern-
31 ity of a child, and insofar as is practicable the provisions of
32 this chapter applicable to establishing paternity shall ap-
33 ply.

34 *Section 3.* Complaints to establish paternity, to obtain a
35 judgment of support, or to determine custody shall be filed,
36 heard, and determined in the probate and family court of the
37 county in which the child, spouse, or parent including a puta-
38 tive father resides. The fact that the child was conceived or
39 born outside the commonwealth does not bar a proceeding to
40 establish paternity in a county where any party resides.

41 *Section 4. (a)* Actions to establish paternity of a child may
42 be commenced by the mother, whether a minor or not, by a
43 person alleging to be the father, whether a minor or not, by
44 the child, by the child's guardian, next of kin, or other per-
45 son standing in a parental relation to the child, by an author-
46 ized representative of an organization doing charitable work
47 and having an interest in the child, or if the mother or child
48 is a recipient of any type of public assistance, by the depart-
49 ment of public welfare or the department of social serv-
50 ices.

51 *(b)* Actions to obtain a judgment of support may be com-
52 menced by a parent of a child entitled to receive support; by
53 the child; by a child's guardian, next of kin, or person stand-
54 ing in a parental relation, where the action is on behalf of
55 the child; by an authorized representative of an organization
56 doing charitable work and having an interest in the spouse or
57 child entitled to receive support; and by the department of
58 public welfare, where the spouse or child is a recipient of pub-
59 lic assistance.

60 *(c)* Actions to determine custody of a child may be com-
61 menced by the mother, whether minor or not; by the father,
62 whether minor or not; by a person alleging to be the mother
63 or father, whether minor or not; by the child; and by a child's

64 guardian, next of kin, or person standing in a parental rela-
65 tion where the action is on behalf of the child.

66 *Section 5. (a)* A man is presumed to be the natural father
67 of a child if: —

68 (1) he and the child's natural mother are or have been
69 married to each other and the child is born during the mar-
70 riage, or within three hundred days after the marriage is ter-
71 minated by death or annulment;

72 (2) before the child's birth, he and the child's natural
73 mother have attempted to marry each other by a marriage
74 solemnized in apparent compliance with law, although the at-
75 tempted marriage is or could be declared invalid, and

76 (i) if the attempted marriage could be declared invalid only
77 by a court, the child is born during the attempted marriage,
78 or within three hundred days after its termination by death or
79 annulment, or

80 (ii) if the attempted marriage is invalid without a court
81 order, the child born within three hundred days after the ter-
82 mination of cohabitation;

83 (3) after the child's birth, he and the child's natural mother
84 have married, or attempted to marry, each other by a mar-
85 riage solemnized in apparent compliance with law, although
86 the attempted marriage could be declared invalid, and

87 (i) he has acknowledged his paternity of the child in a
88 parental responsibility claim as provided in section four A of
89 chapter two hundred and ten, or

90 (ii) with his consent and the consent of the child's mother,
91 he is named as the child's father on the child's birth certificate
92 as provided in section one of chapter forty-six, or

93 (iii) he is obligated to support the child under a written vol-
94 untary promise or by court order, or

95 (iv) he has engaged in any other conduct which can be con-
96 strued as an acknowledgement of paternity;

97 (4) while the child is under the age of majority, he and the
98 mother receive the child into their home and openly hold out
99 the child as their natural child;

100 (5) he has acknowledged his paternity of the child in a
101 parental responsibility claim as provided in section four A of
102 chapter two hundred and ten and the mother, having re-

103 ceived actual notice thereof has failed, within a reasonable
104 time, to object thereto; or

105 (6) with his consent and the consent of the child's mother
106 he is named as the child's father on the birth certificate as
107 provided in section one of chapter forty-six.

108 (b) A presumption under this section may be rebutted in
109 an appropriate action only by clear and convincing evidence.
110 If two or more presumptions arise in a single action which
111 conflict with each other, such presumptions shall be inopera-
112 tive. Any presumption established herein is rebutted by a
113 court decree establishing paternity of the child by another
114 man or by decree of adoption established pursuant to chapter
115 two hundred and ten.

116 *Section 6.* In making an order or judgment relative to the
117 custody of children pending a controversy between their par-
118 ents, or relative to their final possession, the rights of the
119 parents shall, in the absence of misconduct, be held to be
120 equal, and the happiness and welfare of the children shall de-
121 termine their custody or possession of said child.

122 The issues of custody or visitation rights or practices shall
123 not be a defense to an action to obtain support. Failure to
124 acknowledge paternity of a child or failure to provide sup-
125 port or failure to attempt to have contact with a child may be
126 construed as misconduct by a parent. Absent this or other
127 evidence of misconduct, such parent failing to provide support
128 shall be presumed to have an equal right to custody.

129 *Section 7.* Actions to establish paternity of a child may be
130 instituted during pregnancy of the mother or at any time
131 after the birth of the child. In the case of any complaint
132 brought prior to the birth of the child, no final judgment on
133 the issue of paternity shall be made until after the birth of
134 the child. No action brought hereunder shall be defeated due
135 to a still birth or premature termination of the pregnancy.
136 In such event, the court shall enter such order as it shall,
137 after hearing, determine proper. Actions to obtain a judg-
138 ment of support may be instituted at any time that a person
139 to whom is owed a legal obligation to support fails to receive
140 such support.

141 *Section 8.* At the pretrial conference and in further pro-

142 ceedings, any party may be represented by counsel. In an
143 action to establish paternity, if the defendant is indigent and
144 the plaintiff is the department of public welfare, the court
145 may appoint counsel for the defendant. Notwithstanding the
146 fact that actions under this chapter are civil actions, the
147 plaintiff in any action filed under this chapter may be repre-
148 sented by the district attorney's office for the county in which
149 the action is pending, unless the plaintiff, including the de-
150 partment of public welfare, chooses to be represented by pri-
151 vate counsel, or in the case of the department, by private coun-
152 sel, or in the case of the department, by private or agency
153 counsel.

154 *Section 9.* In all actions to establish paternity or in which
155 paternity of a child is an issue, all complaints, pleading, pa-
156 pers, documents, or reports filed in connection therewith,
157 docket entries in the permanent docket and record books shall
158 not be available for inspection, unless a judge of the court
159 where such orders are kept, for good cause shown, shall other-
160 wise order; provided, however, that the child, his mother, and
161 the man adjudicated to be the father may obtain copies of the
162 judgment of establishing paternity and providing further that
163 the department of public welfare shall have access to such
164 records when the child who is or was the subject of the com-
165 plaint is a recipient of public assistance. Such complaints, re-
166 ports, pleadings, papers, and documents, permanent docket
167 and record books shall be segregated. A separate permanent
168 docket book and index shall be provided and shall likewise
169 be segregated.

170 *Section 10.* (a) After an action to establish paternity, to
171 obtain a judgment of support, or to determine custody has
172 been commenced, the court may order that a pretrial confer-
173 ence be held. On the basis of the information produced at the
174 pretrial conference, the judge may evaluate, where appropri-
175 ate, the probability of establishing paternity in a trial and
176 whether a judicial establishment of paternity would be in the
177 best interests of the child or the probability of obtaining a
178 judgment of support. On the basis of the evaluation, an ap-
179 propriate recommendation for settlement shall be made to the
180 parties, which may include the following: —

181 (1) that the action be dismissed with or without preju-
182 dice;

183 (2) in an action to establish paternity, that the matter be
184 compromised by an agreement among the putative father, the
185 mother, and, where appropriate, the department of public wel-
186 fare, in which paternity is not established but in which a de-
187 fined economic obligation is undertaken by the putative father,
188 subject to approval of the judge. In reviewing the obligation
189 undertaken by the putative father in a compromise agreement,
190 the judge shall consider the best interest of the child, dis-
191 counted by the improbability, as it appears to him, of estab-
192 lishing paternity in a trial of the action. In the best interest
193 of the child, the court may order that the putative father's
194 identity be kept confidential.

195 (3) in an action to establish paternity, that the putative
196 father voluntarily acknowledge his paternity of the child;

197 (4) in an action to obtain a judgment of support, that the
198 matter be compromised by an agreement among the parties,
199 including, where appropriate, the department of public wel-
200 fare. Such agreement shall establish a periodic support order
201 to be paid by the defendant and may include the payment of a
202 sum for past support.

203 (5) in an action to determine custody of a child, that the
204 matter be compromised by an agreement between the par-
205 ties. Such agreement shall designate which parent shall have
206 custody of the child or, where appropriate, joint custody and
207 shall include a schedule of visitation.

208 (b) If the parties accept a recommendation made in ac-
209 cordance with subsection (a), judgment shall be entered ac-
210 cordingly.

211 (c) The pre-trial conference may be terminated and the
212 action set for trial if the judge or conducting the conference
213 finds it unlikely that all parties would accept a recommenda-
214 tion he might make under subsection (a).

215 (d) Under no circumstances shall an agreement be recom-
216 mended which makes support payments contingent upon cus-
217 tody or visitation arrangements.

218 *Section 11.* In an action to establish paternity, the court
219 may, on the motion of any party or upon its own motion, or-

220 der the mother, the child, and the putative father to submit
221 to one or more blood grouping or genetic marker tests, to be
222 performed by a duly qualified physician or other such expert
223 and to report to the court. The results of blood grouping tests
224 shall be admissible in evidence only in cases where the definite
225 exclusion of the putative father as such father has been estab-
226 lished. The report of the results of genetic marker tests, in-
227 cluding a statistical probability of the putative father's pa-
228 ternity based upon such tests, shall be admissible in evidence
229 and shall be weighed along with other evidence of the puta-
230 tive father's paternity. If such report is disputed, the court
231 may then order that an additional test be made at the same
232 laboratory or an independent laboratory at the expense of the
233 party requesting additional testing. The fact that any party
234 refuses to submit to a blood test shall be admissible. The cost
235 of making such tests shall be chargeable against the party
236 making the motion. If such party is financially unable to pay
237 for the costs of a test, the court may direct payment from its
238 own funds or by the commonwealth.

239 *Section 12.* During the pendency of an action to obtain a
240 judgment of support, the court may, upon the motion of the
241 plaintiff including, where appropriate, the department of pub-
242 lic welfare, and upon notice to the defendant, enter tempo-
243 rary orders providing for the support of the spouse and/or
244 children, and such orders shall continue in force until modified
245 or revoked. Violations of such an order may be punished as
246 contempt or enforced in the manner provided in section fif-
247 teen.

248 The court may in like manner, upon application of either
249 party or of a next friend on behalf of the minor children of
250 the parties, make such order relative to the care and custody
251 of such children during the pendency of the action for custody
252 as it may consider expedient and for the benefit of the chil-
253 dren.

254 *Section 13.* In actions under this chapter, the trial shall be
255 by the court without a jury. In an action to establish patern-
256 ity, the court may exclude the general public from the room
257 where the trial is held and may admit only persons directly
258 interested in the case, including officers of the court and wit-

259 nesses.

260 *Section 14.* (a) Both the plaintiff and the defendant are
261 competent to testify in proceedings hereunder.

262 (b) Upon refusal of any witness, including a party, to tes-
263 tify under oath or produce evidence, the court may order him
264 or her to testify under oath and produce evidence concerning
265 all relevant facts. If the refusal is upon the ground that his
266 testimony or evidence may tend to incriminate him, the court
267 may grant him immunity from all criminal liability on account
268 of the testimony or evidence he is required to produce. An
269 order granting immunity bars prosecution of the witness for
270 any offense shown in whole or in part by testimony or evi-
271 dence he is required to produce, except for perjury in his tes-
272 timony. The refusal of a witness who has been granted immu-
273 nity, to obey an order to testify or produce evidence may be
274 punished as civil contempt of the court.

275 (c) In an action to establish paternity, the mother and the
276 putative father shall be competent to testify. If the mother
277 is married, both she and her husband may testify to nonaccess
278 and parentage of the child.

279 (d) In an action to establish paternity, testimony relating
280 to sexual access to the mother by an unidentified man at any
281 time or by an identified man at any time other than the prob-
282 able time of conception of the child is inadmissible in evidence,
283 unless offered by the mother.

284 (e) In an action to establish paternity, the court may view
285 the mother, the child, and the putative father to note any re-
286 semblance among the parties.

287 (f) All other evidence relevant to the issue of paternity of
288 the child, custody of a child or support of a spouse or child
289 shall also be admissible.

290 *Section 15.* (a) In an action to establish paternity, if the
291 court finds that the male party is the father of the child, it
292 shall make a judgment establishing paternity. The judgment
293 establishing or not establishing paternity is determinative for
294 all purposes. If the mother or the child is a recipient of pub-
295 lic assistance, the court shall notify the department of public
296 welfare of the judgment. If the judgment is at variance with
297 the child's birth certificate, the court may order that a new

298 birth certificate be issued under section thirteen of chapter
299 forty-six.

300 (b) (1) In an action to obtain a judgment of support, if
301 the court finds that the defendant is chargeable with the sup-
302 port of a spouse or child, the court shall make an order re-
303 quiring the defendant to pay weekly or at other fixed periods
304 a fair and reasonable sum for and toward the support of such
305 spouse or child. In addition, the court may order the defend-
306 ant to pay the plaintiff a sum for past support including pay-
307 ment for medical expenses. Any periodic support order or or-
308 der for past support shall be consistent with the defendant's
309 financial ability or earning capacity. Where the person to be
310 supported is or was a recipient of public assistance, the court
311 may order the defendant to make partial or complete restitu-
312 tion to the department of public welfare for past assistance,
313 including medical assistance provided to such person, provided,
314 that the current needs of the child are met.

315 (2) In determining the amount to be paid, the court may
316 require a financial statement of each party showing, insofar
317 as possible, the assets, liabilities and current income and ex-
318 penses of both parties and children involved in the case and
319 may consider all relevant facts including, but not limited
320 to: —

321 (a) needs of persons entitled to support including necessary
322 shelter, food, clothing, medical care, and education;

323 (b) standard of living and circumstances of the defend-
324 ant;

325 (c) relative financial means of all parties, including their
326 age, health, station, occupation, amount and sources of in-
327 come, vocational skills, employability, estate, liabilities, and
328 opportunity for each for future acquisition of capital assets
329 and income;

330 (d) earning ability of all parties;

331 (e) age of child;

332 (f) need and capacity of child for education, including
333 higher education; and

334 (g) value of services, including those as a homemaker, con-
335 tributed by custodian parent.

336 (3) it shall not be a defense that the defendant has ceased

337 to have custody or the right to custody of a minor child for
338 whom support is sought, or that the plaintiff is interfering
339 with defendant's right of visitation.

340 (4) Where the spouse or child entitled to receive support is
341 a recipient of public assistance, the court shall make the judg-
342 ment of support payable to the department of public welfare,
343 to the extent of benefits payable to them and for as long as
344 the recipient receives public assistance; provided, however,
345 that nothing herein shall prohibit an order of payment or ar-
346 rears to the department after the recipient ceases to receive
347 public assistance, provided that the current needs of the child
348 are met.

349 (c) In making an order or judgment relative to the custody
350 of children pending a controversy between their parents, or
351 relatives to their final possession, the rights of the parents
352 shall, in the absence of misconduct, be held to be equal, and
353 the happiness and welfare of the children shall determine their
354 custody or possession. When considering the happiness and
355 welfare of the children the court may consider whether or not
356 the child's present or past living conditions adversely affects
357 his physical, mental, moral, or emotional health when making
358 an order or judgment relative to the custody of said child.

359 The entry of an order or judgment relative to the custody
360 of minor children shall not negate or impede the ability of
361 the parent not granted custody to have such access to the
362 academic, medical, hospital, or other health records of the
363 child, as he would have had if the custody order or judgment
364 had not been entered.

365 Where the parents have reached an agreement providing
366 for the custody of the children, the court may enter an order
367 in accordance with such agreement, unless specific findings are
368 made by the justice indicating that such an order would not be
369 in the best interests of the children.

370 *Section 16.* (a) Each order for support issued by a court
371 pursuant to this chapter shall include an order directing the
372 obligor to assign a portion of his commission, earnings, sal-
373 aries, wages, or other periodic income to person designated
374 by the court in an amount sufficient to comply with such sup-
375 port order. The court may designate any of the following per-

376 sons or agencies as the assignee, the person entitled to re-
377 ceive such support under the order, the guardian or conserva-
378 tor of such person, the probation office of the court, or where
379 the person entitled to receive such support is a recipient of
380 public assistance, the department of public welfare or the de-
381 partment of social services. If the obligor does not execute
382 an assignment when so ordered, the court shall execute such
383 assignment. Such assignment shall take effect when the obli-
384 gor has failed to meet two successive required payments of
385 support or, if the court finds that the obligor is likely to de-
386 fault on the support order, the court may order such assign-
387 ment to be effective immediately.

388 The chief probation officer of the court, upon application of
389 the person designated by the court to receive payments, shall
390 send a notice by certified or registered mail to the last-known
391 address of any obligor who has made less than full payment
392 for two consecutive scheduled support payments. Such notice
393 shall be sent no later than ten days after the date upon which
394 the application was filed and shall notify the obligor that such
395 assignment shall go into effect fifteen days after the notice
396 was sent. If the obligor requests a hearing within said fifteen
397 day period on the issue of whether such assignment should
398 take effect, the execution of the assignment shall be stayed
399 pending the outcome of the hearing. The court shall hold a
400 hearing pursuant to this section within thirty days of the re-
401 quest. If at the hearing the obligor establishes that extraor-
402 dinary circumstances prevented him from meeting the re-
403 quirements of the support orders and that such circumstances
404 are beyond the control of the obligor, the court may order that
405 such assignment not take effect until such time, within the
406 next twelve months, as another support payment is missed or
407 only partially met.

408 The court shall send a notice of the assignment to the em-
409 ployer to effectuate the assignment and such assignment shall
410 take effect on the next payment of earnings after the employ-
411 er of the obligor receives notice thereof. The order of assign-
412 ment shall specify the amount of earnings to be paid to the
413 person supported and shall not exceed the federal limits on the
414 percentage of an obligor's income which may be assigned for

415 suport. The obligor may move to terminate or modify the
416 amount of such assignment at any time for good cause.

417 The employer may deduct from said earnings a sum not
418 exceeding one dollar as reimbursement for costs incurred. The
419 employer may not discipline, suspend, or discharge an em-
420 ployee because of an assignment executed pursuant to this
421 section. Any employer who violates this section shall be liable
422 to such employee for all wages and employment benefits lost
423 by the employee from the period of unlawful discipline, sus-
424 pension, or discharge to the period of reinstatement. Any
425 employer who fails to comply with a wage assignment exe-
426 cuted pursuant to this section shall be liable to the party des-
427 igned by the court to receive such funds for the full amount
428 of the wages assigned.

429 If the employment of the obligor is terminated, the obligor
430 shall promptly notify the court and the court shall order an
431 assignment of earnings from any subsequent employer. Where
432 an obligor has voluntarily executed a wage assignment and
433 said assignment is submitted to the court, the assignment shall
434 be subject to the provisions of this section. Any judgment or
435 order for suport isuing from a court of competent jurisdiction
436 of any state, which has law similar to this section which pro-
437 vides for reciprocity to this commonwealth, shall have the
438 same force and effect as if the judgment or order originated
439 from a court in the commonwealth.

440 Any existing order for support in any case which is brought
441 before a court shall be modified by such court to conform to
442 the provision of this section.

443 (b) When the court makes an order for maintenance or
444 support for a spouse or a child, and such spouse or child is not
445 covered by a private group health insurance plan, the court
446 shall determine whether the obligor under such order has
447 health insurance on a group plan available to him through an
448 employer or organization that may be extended to cover the
449 spouse or child for whom support is ordered. When the court
450 has determined that the obligor has such insurance, the court
451 shall include in the support order a requirement that the obli-
452 gor exercise the option of additional coverage in favor of such
453 spouse or child.

454 *Section 17.* A judgment of support issued in conclusion of
455 proceedings under this chapter or a temporary support order
456 issued under section eleven may be enforced with one or more
457 of the following methods: —

458 (1) contempt in accordance with sections thirty-four and
459 thirty-four A of chapter two hundred and fifteen;

460 (2) execution;

461 (3) attachment;

462 (4) trustee process, in accordance with the provisions of
463 chapter two hundred and forty-six;

464 (5) equitable actions to reach and apply for the enforce-
465 ment of judgments; and

466 (6) any other civil remedy available for the enforcement of
467 judgments or for the enforcement of support or custody or-
468 ders entered under chapter two hundred and eight, two hun-
469 dred and nine, and two hundred and seventy-three A.

470 *Section 18.* The court has continuing jurisdiction to modify,
471 increase, decrease or revoke a judgment of support or custody
472 at any time after the judgment was made upon a showing of
473 a substantial change of circumstances of the parties and as the
474 benefit of the spouse or children requires.

475 *Section 19. (a)* In lieu of or in conclusion of proceedings
476 to establish paternity, the written acknowledgment of patern-
477 ity executed by the putative father, whether a minor or not,
478 when accompanied by a written affirmation of paternity exe-
479 cuted and sworn to by the mother of the child and filed with
480 and approved by the court for the county in which the mother
481 of the child, the child, or the putative father lives shall have
482 the same force and effect as a judgment establishing paternity
483 by that court. In any subsequent proceeding to establish a
484 support obligation under this chapter, a prior judgment as to
485 paternity shall be as *res judicata* as to that issue and shall not
486 be reconsidered by the court.

487 *(b)* In lieu of or in conclusion of proceedings to obtain a
488 judgment of support, the written agreement to support exe-
489 cuted by spouse or parent, whether a minor or not, when
490 filed with an approved by the court in the county where either
491 the spouse, parent or child lives shall have the force and effect
492 of a judgment of support by the court. Any such agreements

493 shall be admissible in a proceeding to establish a judgment of
494 support under this chapter, and the court shall have the au-
495 thority to order and enforce payment of any sums due under
496 such written agreement; provided, however, that the court
497 shall ensure that such order is reasonable in light of the de-
498 fendant's financial ability or earning capacity.

499 (c) In lieu of or in conclusion of proceedings to obtain a
500 judgment of custody, a written agreement relative to custody
501 and visitation executed by both parents, whether minor or not,
502 when filed with and approved by the court in the county where
503 either the spouse, parent or child lives shall have the force and
504 effect of a judgment of custody by the court. Any such agree-
505 ment shall be admissible in a proceeding to determine custody
506 under this chapter.

507 *Section 20.* If any provision of this chapter or the applica-
508 tion thereof to any person or circumstances is held invalid, the
509 invalidity does not affect other provisions or applications of
510 the chapter which can be given effect without the invalid pro-
511 visions or application, and to this end the provisions of this
512 act are severable.

1 SECTION 14. Chapter 215 of the General Laws is hereby
2 amended by striking out section 4 and inserting in place there-
3 of the following section: —

4 *Section 4.* Probate courts shall exclusive original jurisdic-
5 tion of actions by married women relative to their separate
6 estate, of actions relative to the care, custody, education and
7 maintenance of minor children provided for by sections thirty
8 and thirty-seven of chapter two hundred and nine, and of ac-
9 tions relative to paternity, support, and custody of minor chil-
10 dren provided for in chapter two hundred and nine C.

1 SECTION 15. Chapter 273 of the General Laws as most re-
2 cently amended by Chapter 848 of the acts of 1977 is hereby
3 hereby further amended by striking out section 1 and insert-
4 ing in place thereof the following new section: —

5 *Section 1.* Any spouse or parent who without just cause
6 deserts his spouse or minor child and leaves them or any or
7 either of them without making reasonable provisions for their
8 support, and maintenance of his spouse, whether living with

9 him or living apart from him for justifiable cause, or of his
10 minor child, and any spouse or parent who abandons or leaves
11 his spouse or minor child in danger of becoming a burden upon
12 the public, and any parent of a minor child or any guardian
13 with care and custody of a minor child, or any custodian of a
14 minor child, who wilfully fails to provide necessary and proper
15 physical, educational or moral care and guidance, or who per-
16 mits said child to grow up under conditions or circumstances
17 damaging to the child's sound character development, or who
18 fails to provide proper attention for said child shall be subject
19 to the penalties set forth in section fifteen A of this chapter.

20 A child shall not be deemed to be neglected or lack proper
21 physical care for the sole reason that he is being provided
22 remedial treatment by spiritual means alone in accordance
23 with the tenets and practice of a recognized church or re-
24 ligious denomination by a duly accredited practitioner there-
25 of. In a prosecution hereunder for desertion or nonsupport
26 against a husband or wife a decree or judgment of a probate
27 court in a proceeding in which said husband or wife appeared
28 or was personally served with process, establishing the right
29 of his spouse to live apart, or the freedom of such spouse to
30 convey and deal with property, or the right to the custody of
31 the children, shall be admissible and shall be prima facie
32 evidence of such right.

1 SECTION 16. Chapter 273 of the General Laws is hereby
2 further amended by striking section 15, as most recently
3 amended by section 12 of chapter 621 of the acts of 1979, and
4 inserting in place thereof the following new section: —

5 *Section 15.* Any parent of an illegitimate child, whether be-
6 gotten within or without the commonwealth, who neglects or
7 refuses to contribute reasonably to its support and maintenance
8 shall be subject to penalties provided under section fifteen
9 A. If there has been any final adjudication of the paternity of
10 the child, such adjudication shall be conclusive on all persons
11 in proceedings under this section. If there has been no final
12 adjudication of paternity, proceedings under this section shall
13 be stayed pending the conclusion of an action to establish pa-
14 ternity under chapter two hundred and nine C or chapter two

15 hundred and seventy-three B, which shall be commenced forth-
16 with. The duty to contribute reasonably to the support of such
17 child shall continue during its minority.

1 SECTION 17. Said chapter 273 is hereby further amended
2 by inserting after section 15 the following new section, sec-
3 tion 15A: —

4 *Section 15A.*

5 (1) The penalty for violation of sections one and fifteen
6 of this chapter shall be by fine not to exceed five hundred
7 dollars or by imprisonment for not more than two years or
8 both

9 (2) Any person who is subject to a court order to provide
10 maintenance and support pursuant to this chapter or chapters
11 two hundred and eight, two hundred and nine, two hundred and
12 nine C or two hundred and seventy-three B and who fails to
13 comply with that order shall be penalized by a fine not to
14 exceed five thousand dollars or two years imprisonment or
15 both.

16 (3) Any person who goes into another state for the purpose
17 of avoiding support responsibilities for a spouse or
18 child shall be penalized by a fine not to exceed ten thousand
19 dollars or five years in prison or both.

20 (4) In a prosecution under this section, the court may, upon
21 conviction of the defendant, provide for alternative sentenc-
22 ing, including (a) the suspension of the sentence upon and
23 during the compliance by the defendant with any order for
24 the support as already made or as thereafter modified, upon
25 entry of a bond for such support by the defendant with surety
26 approved by the court, or (b) notwithstanding the provisions
27 of section six A of chapter two hundred and seventy-nine, the
28 imprisonment of the defendant only on designated weekends,
29 evenings, or holidays, provided, that such defendant retains
30 employment and complies with such support orders.

1 SECTION 18. The General Laws are hereby amended by
2 inserting after Chapter 273A the following chapter: —

3 CHAPTER 273B
4 PATERNITY AND SUPPORT MATTERS

5 *Section 1.* Every person is charged with the support of his
6 or her spouse and his or her child from its birth up to the age
7 of eighteen or where such child is domiciled in the home of
8 a parent and is principally dependent upon said parent for
9 maintenance, to age twenty-one. For the purpose of this sec-
10 tion, the term "child" shall include one born in wedlock and
11 one born out of wedlock whose parents have intermarried or
12 whose father has acknowledged in writing his paternity of
13 such child or has been adjudged the father by a court of
14 competent jurisdiction, including an adjudication in a pro-
15 ceeding hereunder. Each person charged with support under
16 this section shall be required to furnish support according to
17 his financial ability.

18 *Section 2.* There shall be two causes of action under this
19 chapter: (a) an action to establish paternity of a child born
20 out of wedlock, including one born to, or conceived by, a mar-
21 ried woman but begotten by a man other than her husband;
22 (b) an action to obtain a judgment of support. An action to
23 establish paternity may be joined with an action to obtain a
24 judgment of support either at the commencement of the action
25 or at any subsequent time. Such joinder may be allowed by
26 the court on its own motion or on the motion of any party,
27 including the department of public welfare. When such ac-
28 tions are joined, the court shall issue separate and distinct
29 judgments on the issues of paternity and support. Any in-
30 terested party may bring an action to establish maternity of a
31 child, and insofar as is practicable the provisions of this chap-
32 ter applicable to establishing paternity shall apply.

33 *Section 3.* Complaints to establish paternity or to obtain
34 a judgment of support shall be filed, heard, and determined in
35 the district court of the judicial district in which the child,
36 spouse, or parent including a putative father resides. The
37 fact that the child was conceived or born outside the Common-
38 wealth does not bar a proceeding to establish paternity in a
39 judicial district where any party resides.

40 *Section 4.* (a) Actions to establish paternity of a child may
41 be commenced by the mother, whether a minor or not; by a
42 person alleging to be the father, whether a minor or not; by
43 the child's guardian, next of kin or other person standing in

44 a parental relation to the child; by an authorized representa-
45 tive of an organization doing charitable work and having an
46 interest in the child; or if the mother of the child is or was
47 a recipient of any type of public assistance, by the department
48 of public welfare or the department of social services.

49 (b) Actions to obtain a judgment of support may be com-
50 menced by the spouse or child entitled to receive support; by
51 a child's guardian, next of kin, or person standing in a pa-
52 rental relation, where the action is on behalf of the child; by
53 an authorized representative of an organization doing char-
54 itable work and having an interest in the spouse or child en-
55 titled to receive support; and by the department of public wel-
56 lic welfare, where the spouse or child is or was a recipient of
57 public assistance.

58 *Section 5.* Actions to establish paternity of a child may be
59 instituted during pregnancy of the mother or at any time after
60 the birth of the child. In the case of any complaint brought
61 prior to the birth of the child, no final judgment on the issue
62 of paternity shall be made until after the birth of the child. No
63 action brought hereunder shall be defeated due to a still birth
64 or premature termination of the pregnancy. In such event,
65 the court shall enter such order as it shall, after hearing, de-
66 termine proper. Actions to obtain a judgment of support may
67 by instituted at any time that a person to whom is owed a
68 legal obligation to support fails to receive such support.

69 *Section 6.* An action to establish paternity or to obtain a
70 judgment of support shall be a civil action governed by the dis-
71 trict/municipal court rules of civil procedure; provided, how-
72 ever, that the complaint in any action under this chapter shall
73 be served on the defendant in the same manner as is prescribed
74 under the rules of criminal procedure, and provided, however,
75 that if the defendant fails to appear in court after he has been
76 served and notified of the hearing in accordance with such
77 rules, the court may hear the plaintiff and enter such judg-
78 ment as the facts may warrant.

79 At the pretrial conference and in further proceedings, any
80 party may be represented by counsel. In an action to estab-
81 lish paternity, if the defendant is indigent and the plaintiff is
82 the department of public welfare, the court may appoint coun-

83 sel for the defendant. Notwithstanding the fact that actions
84 under this chapter are civil actions, the plaintiff in any action
85 filed under this chapter may be represented by the district at-
86 torney's office for the county in which the action is pending,
87 unless the plaintiff, including the department of public wel-
88 fare, chooses to be represented by private counsel, or in the
89 case of the department, by private or agency counsel.

90 *Section 7.* In all actions to establish paternity or in which
91 paternity of a child is an issue, all complaints, pleadings,
92 papers, documents, or reports filed in connection therewith,
93 docket entries in the permanent docket and record books shall
94 not be available for inspection, unless a judge of the court where
95 such orders are kept, for good cause shown, shall otherwise
96 order; provided, however, that the child, his mother, and the
97 man adjudicated to be the father may obtain copies of the
98 judgment of establishing paternity and providing further that
99 the department of public welfare shall have access to such
100 records and may obtain copies of the judgment establishing
101 paternity when the child who is or was the subject of the com-
102 plaint is or was a recipient of public assistance. Such com-
103 plaints, reports, pleadings, papers, and documents, permanent
104 docket and record books shall be segregated. A separate per-
105 manent docket books and index shall be provided and shall
106 likewise be segregated.

107 *Section 8.*

108 (a) After an action to establish paternity or to obtain a
109 judgment of support has been commenced, the court may order
110 that a pretrial conference be held. Such pretrial conference
111 may be held before a judge or the clerk-magistrate of the court.
112 On the basis of the information produced at the pretrial con-
113 ference, the judge or the clerk-magistrate may evaluate, where
114 appropriate, the probability of establishing paternity in a trial
115 and whether a judicial establishment of paternity would be in
116 the best interest of the child or the probability of obtaining a
117 judgment of support. On the basis of the evaluation, an ap-
118 propriate recommendation for settlement shall be made to the
119 parties, which may include the following: —

- 120 (1) that the action be dismissed with or without prejudice;
121 (2) in an action to establish paternity, that the matter be

122 compromised by an agreement among the putative father, the
123 mother, and, where appropriate, the department of public
124 welfare, in which paternity is not established but in which a
125 defined economic obligation is undertaken by the putative
126 father, subject to approval of the judge or clerk-magistrate.
127 In reviewing the obligation undertaken by the putative father
128 in a compromise agreement, the judge or clerk-magistrate shall
129 consider the best interest of the child, discounted by the im-
130 probability, as it appears to him, of establishing paternity in a
131 trial of the action. In the best interest of the child, the court
132 may order that the putative father's identity be kept con-
133 fidential.

134 (3) in an action to establish paternity, that the putative
135 father voluntarily acknowledge his paternity of the child;

136 (4) in an action to obtain a judgment of support, that the
137 matter be compromised by an agreement among the parties,
138 including, where appropriate, the department of public wel-
139 fare. Such agreement shall establish a periodic support order
140 to be paid by the defendant and may include the payment of
141 a sum for past support.

142 (b) If the parties accept a recommendation made in ac-
143 cordance with subsection (a), judgment shall be entered ac-
144 cordingly.

145 (c) The pretrial conference may be terminated and the ac-
146 tion set for trial if the judge or clerk-magistrate conducting the
147 conference finds it unlikely that all parties would accept a
148 recommendation he might make under subsection (a).

149 (d) Where the mother of a child or such child, in an action
150 to establish paternity, or spouse or child entitled to receive sup-
151 port in an action to obtain a judgment of support, is a re-
152 cipient of public assistance, the department of public welfare
153 may refuse to accept a recommendation under this section, and
154 such refusal shall cause the action to be set for trial.

155 *Section 9.* In an action to establish paternity, the court
156 may, on the motion of any party or upon its own motion, or-
157 der the mother, the child, and the putative father to submit
158 to one or more blood grouping or genetic marker tests, to be
159 performed by a duly qualified physician or other such expert
160 and to report to the court. The results of blood grouping tests

161 shall be admissible in evidence only in cases where the definite
162 exclusion of the putative father has been established. The re-
163 port of the results of genetic marker tests, including a statisti-
164 cal probability of the putative father's paternity based upon
165 such tests, shall be admissible in evidence and shall be weighed
166 along with other evidence of the putative father's paternity.
167 If such report is disputed, the court may then order that an
168 additional test be made at the same laboratory or an inde-
169 pendent laboratory at the expense of the party requesting ad-
170 ditional testing. The fact that any party refuses to submit to a
171 blood test shall be admissible. The cost of making such tests
172 shall be chargeable against the party making the motion. If
173 such party is financially unable to pay for the costs of a test,
174 the court may direct payment for its own funds or by the
175 Commonwealth.

176 *Section 10.* During the pendency of an action to obtain a
177 judgment of support, the court may, upon the motion of the
178 plaintiff including, where appropriate, the department of pub-
179 lic welfare, and upon notice to the defendant, enter temporary
180 orders providing for the support of the spouse and/or chil-
181 dren, and such orders shall continue in force until modified or
182 revoked. Violations of such an order may be punished as con-
183 tempt or enforced in the manner provided in section fifteen of
184 this chapter.

185 *Section 11.* (a) In actions under this chapter, the trial shall
186 be by the court without a jury. In an action to establish pa-
187 ternity, the court may exclude the general public from the
188 room where the trial is held and may admit only persons di-
189 rectly interested in the case, including officers of the court
190 and witnesses.

191 *Section 12.* (a) Both the plaintiff and the defendant are
192 competent to testify in proceedings hereunder.

193 (b) Upon refusal of any witness, including a party, to
194 testify under oath or produce evidence, the court may order
195 him or her to testify under oath and produce evidence concern-
196 ing all relevant facts. If the refusal is upon the grounds that
197 his testimony or evidence may tend to incriminate him, the
198 court may grant him immunity from all criminal liability on
199 account of the testimony or evidence he is required to produce.

200 An order granting immunity bars prosecution of the witness
201 for any offense shown in whole or in part by testimony or evi-
202 dence he is required to produce, except for perjury in his testi-
203 mony. The refusal of a witness who has been granted immun-
204 ity, to obey an order to testify or produce evidence may be
205 punished as civil contempt of the court.

206 (c) In an action to establish paternity, the mother and the
207 putative father shall be competent to testify. If the mother
208 is married, both she and her husband may testify to nonaccess
209 and parentage of the child.

210 (d) In an action to establish paternity, testimony relating
211 to sexual access to the mother by an unidentified man at any
212 time or by an identified man at any time other than the prob-
213 able time of conception of the time is inadmissible in evidence,
214 unless offered by the mother.

215 (e) In an action to establish paternity, the court may view
216 the mother, the child, and the putative father to note any re-
217 semblance among the parties, notwithstanding the absence of
218 expert testimony.

219 (f) All other evidence relevant to the issue of paternity of
220 the child or support of a spouse or child shall also be admis-
221 sible.

222 *Section 13.* (a) in an action to establish paternity if the
223 court finds that the male party is the father of the child, it
224 shall make a judgment establishing paternity. The judgment
225 establishing or not establishing paternity is determinative for
226 all purposes. If the mother or the child is a recipient of pub-
227 lic assistance, the court shall notify the department of public
228 welfare of the judgment. If the judgment is at variance with
229 the child's birth certificate, the court may order that a new
230 birth certificate be issued under section thirteen of chapter
231 forty-six.

232 (b) (1) In an action to obtain a judgment of support, if the
233 court finds that the defendant is chargeable with the support of
234 a spouse or child, the court shall make an order requiring the
235 defendant to pay weekly or at other fixed periods a fair and
236 reasonable sum for and toward the support of such spouse or
237 child. In addition, the court may order the defendant to pay
238 the plaintiff a sum for past support including payment for

239 medical expenses. Any periodic support order or order for
240 past support shall be consistent with the defendant's financial
241 ability or earning capacity. Where the person to be supported
242 is or was a recipient of public assistance, the court may order
243 the defendant to make partial or complete restitution to the
244 department of public welfare for past assistance, including med-
245 ical assistance provided to such person, provided, that the
246 current needs of the child are met.

247 (2) In determining the amount to be paid, the court may re-
248 quire a financial statement of each party showing, insofar as
249 possible, the assets, liabilities and current income and expenses
250 of both parties and children involved in the case and may con-
251 sider all relevant facts including, but not limited to: —

252 (a) Needs of the persons entitled to support including neces-
253 sary shelter, food, clothing, medical care, and education.

254 (b) Standard of living and circumstances of the defendant;

255 (c) Relative financial means, of all parties, including their
256 age, health, station, occupation, amount and sources of in-
257 come, vocational skills, employability, estate, liabilities, and
258 opportunity for each for future acquisition of capital assets
259 and income;

260 (d) Earning ability of all parties;

261 (e) Age of child;

262 (f) Needs and capacity of child for education, including
263 higher education; and

264 (g) Value of services, including those as a homemaker, con-
265 tributed by custodian parent.

266 (3) It shall not be a defense that the defendant has ceased
267 to have custody or the right to custody of a minor child for
268 whom support is sought, or the plaintiff is interfering with
269 defendant's right of visitation.

270 (4) Where the spouse or child entitled to receive support is
271 a recipient of public assistance, the court shall make the judg-
272 ment of support payable to the department of public welfare,
273 to the extent of benefits payable to such spouse or child and
274 for as long as the recipient receives public assistance; provided,
275 however, that nothing herein shall prohibit an order of pay-
276 ment or arrears to the department after the recipient ceases
277 to receive public assistance, provided, that the current needs

278 of the child are met.

279 (c) Each order for support issued by a court pursuant to
280 this chapter shall include an order directing the obligor to as-
281 sign a portion of his commission, earnings, salaries, wages, or
282 other periodic income to a person designated by the court in
283 an amount sufficient to comply with such support order. The
284 court may designate any of the following persons or agencies
285 as the assignee, the person entitled to receive such support un-
286 der the order, the guardian or conservator of such person, the
287 probation officer of the court, or where the person entitled to
288 receive such support is a recipient of public assistance, the de-
289 partment of public welfare or the department of social serv-
290 ices. If the obligor does not execute such assignment. Such as-
291 signed, the court shall execute such assignment. Such as-
292 signment shall take effect when the obligor has failed to meet
293 two successive required payments of support or, if the court
294 finds that the obligor is likely to default on the support order,
295 the court may order such assignment to be effective im-
296 mediately.

297 The chief probation officer of the court, upon application
298 of the person designated by the court to receive payments,
299 shall send a notice by certified or registered mail to the last-
300 known address of any obligor who has made less than full
301 payment for two consecutive scheduled support payments. Such
302 notice shall be sent no later than ten days after the date upon
303 which the application was filed and shall notify the obligor
304 that such assignment shall go into effect fifteen days after
305 the notice was sent. If the obligor requests a hearing within
306 said fifteen days period on the issue of whether such assign-
307 ment should take effect, the execution of the assignment shall
308 be stayed pending the outcome of the hearing. The court shall
309 hold a hearing pursuant to this section within thirty days of
310 the request. If at the hearing the obligor establishes that ex-
311 traordinary circumstances prevented him from meeting the
312 requirements of the support orders and that such circum-
313 stances are beyond the control of the obligor, the court may
314 order that such assignment not take effect until such time,
315 within the next twelve months, as another support payment is
316 missed or only partially met.

317 The court shall send a notice of the assignment to the em-
318 ployer to effectuate the assignment and such assignment shall
319 take effect on the next payment of earnings after the employer
320 of the obligor receives notice thereof. The order of assign-
321 ment shall specify the amount of earnings to be paid to the
322 person supported and shall not exceed the federal limits on the
323 percentage of an obligor's income which may be assigned for
324 support. The obligor may move to terminate or modify the
325 amount of such assignment at any time for good cause.

326 The employer may deduct from said earnings a sum not ex-
327 ceeding one dollar as reimbursement for costs incurred. The
328 employer may not discipline, suspend, or discharge an em-
329 ployee because of an assignment executed pursuant to this sec-
330 tion. Any employer who violates this section shall be liable
331 to such employee for all wages and employment benefits lost
332 by the employee from the period of unlawful discipline, sus-
333 pension, or discharge to the period of reinstatement. Any em-
334 ployer who fails to comply with a wage assignment executed
335 pursuant to this section shall be liable to the party designated
336 by the court to receive such funds for the full amount of the
337 wages assigned.

338 If the employment of the obligor is terminated, the obligor
339 shall promptly notify the court and the court shall order an
340 assignment of earnings from any subsequent employer. Where
341 an obligor has voluntarily executed a wage assignment and
342 said assignment is submitted to the court, the assignment shall
343 be subject to the provisions of this section. Any judgment or
344 order for support issuing from a court of competent jurisdic-
345 tion of any state, which has law similar to this section which
346 provides for reciprocity to this commonwealth, shall have the
347 same force and effect as if the judgment or order originated
348 from a court in the commonwealth.

349 Any existing order for support in any case which is brought
350 before a court shall be modified by such court to conform to
351 the provision of this section.

352 (d) When the court makes an order for maintenance or sup-
353 port for a spouse or a child, and such spouse or child is not
354 covered by a private group health insurance plan, the court
355 shall determine whether the obligor under such order has

356 health insurance on a group plan available to him through
357 an employer or organization that may be extended to cover
358 the spouse or child for whom support is ordered. When the
359 court has determined that the obligor has such insurance, the
360 court shall include in the support order a requirement that
361 the obligor exercise the option of additional coverage in favor
362 of such spouse or child.

363 *Section 14.* A judgment of support issued in conclusion of
364 proceedings under this chapter or a temporary support order
365 issued under section eleven may be enforced with one or more
366 of the following methods: —

367 (1) Contempt in accordance with sections thirty-four and
368 thirty-four A of chapter two hundred and fifteen;

369 (2) Execution;

370 (3) Attachment;

371 (4) Trustee process, in accordance with the provisions of
372 chapter two hundred and forty-six;

373 (5) Equitable actions to reach and apply for the enforce-
374 ment of judgments; and

375 (6) Any other civil remedy available for the enforcement of
376 judgments or for the enforcement of support orders entered
377 under chapter two hundred and eight, two hundred and nine,
378 and two hundred and seventy-three A.

379 *Section 15.* The court has continuing jurisdiction to modify,
380 increase, decrease or revoke a judgment of support at any
381 time after the judgment was made upon a showing of a sub-
382 stantial change of circumstances of the parties and as the
383 benefit of the spouse or children requires.

384 *Section 16.* (a) In lieu of or in conclusion of proceedings to
385 establish paternity, the written acknowledgement of paternity
386 executed by the putative father, whether a minor or not, when
387 accompanied by a written affirmation of paternity executed
388 and sworn to by the mother of the child and filed with and ap-
389 proved by the court for the judicial district in which the
390 mother of the child, the child, or the putative father lives shall
391 have the same force and effect as a judgment establishing pa-
392 ternity by that court. In any subsequent proceeding to estab-
393 lish a support obligation under this chapter, a prior judgment
394 as to paternity shall be res judicata as to that issue and shall

395 not be reconsidered by the court.

396 (b) In lieu of or in conclusion of proceedings to obtain a
397 judgment of support, the written agreement to support ex-
398 ecuted by spouse or parent, whether a minor or not, when
399 filed with and approved by the court in the judicial district
400 where either the spouse, parent or child lives shall have the
401 force and effect of a judgment of support by the court. Any
402 such agreements shall be admissible in a proceeding to estab-
403 lish a judgment of support under this chapter, and the court
404 shall have the authority to order and enforce payment of any
405 sums due under such written agreement; provided, however,
406 that the court shall insure that such order is reasonable in
407 light of the defendant's financial ability or earning capacity.

408 (c) Any agreement or settlement, made before or after
409 the complaint is filed, other than an agreement made under
410 the provisions of this section, shall take effect only upon ap-
411 proval of the terms thereof by a judge of the court in which
412 the complaint was filed, and where the spouse, mother, or
413 child is a recipient of public assistance, with the approval of
414 the department of public welfare. When so approved, such
415 agreements shall be binding upon all persons executing them,
416 whether such person is a minor or an adult.

417 *Section 17.* If any provision of this chapter or the applica-
418 tion thereof to any person or circumstances is held invalid, the
419 invalidity does not affect other provisions or applications of
420 the chapter which can be given effect without the invalid pro-
421 visions or application, and to this end the provisions of this
422 act are severable.

1 SECTION 19. There is hereby established, subject to appro-
2 priation, a pilot program within the probate and family court
3 department of the trial court to expedite the hearing of child
4 and spouse support cases. The administrative justice of said
5 court shall appoint, subject to appropriation, special magis-
6 trates for child support matters in said courts of such coun-
7 ties as he shall designate. Notwithstanding the provisions of
8 section sixty-two C of chapter two hundred and twenty-one
9 or the provisions of any other law to the contrary, said
10 special magistrates are hereby authorized to hold hearings,

11 receive evidence, make findings, and issue orders relative to
12 the support of minor children and spouses in actions brought
13 pursuant to sections thirty-two and thirty-seven of chapter
14 two hundred and nine or chapter two hundred and nine C.
15 Such orders shall become the order of the court within fifteen
16 days of the date of issuance of such order, unless either party
17 to such action shall file with such court an application to re-
18 move such case to the regular docket of such court within said
19 time period. The court shall allow such application in the
20 normal course, provided, that the court shall, unless equity re-
21 quires otherwise, award the costs to the prevailing party.

1 SECTION 20. There is hereby established, subject to appro-
2 priation, a pilot program within the district court department
3 of the trial court and the Boston municipal court department
4 of the trial court expedite the hearing of child and spouse
5 support cases. The administrative justices of said courts shall
6 appoint, subject to appropriation, special magistrates for child
7 support matters in said courts of such counties as he shall
8 designate. Notwithstanding the provisions of section sixty-
9 two C of chapter two hundred and twenty-one or the provisions
10 of any other law to the contrary, said special magistrates are
11 hereby authorized to hold hearings, receive evidence, make
12 findings, and issue orders relative to the support of minor chil-
13 dren and spouses in actions brought pursuant to chapters two
14 hundred and seventy-three and two hundred and seventy-three
15 B of the General Laws. Such orders shall become the order of
16 the court within fifteen days of the date of issuance of such
17 order, unless either party to such action shall file with such
18 court an application to remove such case to the regular docket
19 of such court within said time period. The court shall allow
20 such application in the normal course, provided, that the court
21 shall, unless equity requires otherwise, award the costs to the
22 prevailing party.

1 SECTION 21. To encourage the voluntary payment of child
2 support to the department of public welfare on behalf of re-
3 cipients of benefits under the program of aid to families with
4 dependent children, the commissioner of said department is

5 hereby authorized during the calendar year nineteen hundred
6 and eighty-four to establish a three-month amnesty period
7 for persons whose spouses or former spouses and children are
8 receiving assistance under said program. During such an
9 amnesty period, any person with a debt due and owing to said
10 department, as provided for in section twenty-one of chapter
11 eighteen, who voluntarily remits the full amount of such debt,
12 or a substantial portion of such debt as determined on a sched-
13 ule established by said department, shall not have a complaint
14 under chapter two hundred and seventy-three filed against
15 such person by said department, shall not be subject to con-
16 tempt proceedings under section thirty-four A of chapter two
17 hundred and fifteen during such amnesty period and shall not
18 be liable for such penalties as provided for in section twenty-
19 one of said chapter eighteen.

20 Said department shall take steps to notify the general pub-
21 lic and person owing such debts of the availability of such
22 amnesty provision.