

By Mr. Segel of Brookline, petition of James Segel and John A. Brennan, Jr., relative to required hearings in certain probate court cases. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT RELATING TO THE REQUIREMENT OF A HEARING IN CERTAIN PROBATE COURT CASES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 208 of the General Laws is hereby amended by
2 inserting after section 33 the following section: —

3 *Section 33A.* Upon application by the libellant to a divorce
4 libel, the court without a hearing may, if it is satisfied that there
5 are no disputed issues of fact and that the libellee offers no
6 contest, grant a decree of divorce nisi and may make such other
7 orders as it deems appropriate including, without limitation,
8 orders for alimony and for support and custody of children. Such
9 application shall be made by motion and shall be supported by
10 written documentation setting forth facts sufficient to sustain
11 the grounds for divorce set forth in the libel and to support any
12 other orders requested in connection therewith, including with-
13 out limitation affidavits on personal knowledge of admissible
14 facts as to which it appears affirmatively that the affiants would
15 be competent to testify.

16 If the libellee has not filed an answer or appearance, or if
17 within ten days after the filing of the motion for summary decree
18 the libellee has not filed a written response or counter-affidavits
19 evidencing an intention to contest the libellant's motion, the

20 court shall review the motion and, if it is satisfied that the matter
21 need not be heard by the court, shall grant the motion without a
22 hearing. The denial of a motion made under this section shall not
23 be appealable.