

HOUSE No. 2388

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 27, 1950.

The committee on Legal Affairs, to whom was referred so much of the twenty-fifth annual report of the Judicial Council (Pub. Doc. No. 144) as relates to the support and maintenance of persons over twenty-one years of age who are incapable of self-support by reason of physical or mental disability (pages 33-37), report the accompanying bill (House, No. 2388).

For the committee,

CHARLES D. DRISCOLL.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty.

AN ACT CONFERRING ON PROBATE COURTS EQUITY JURISDICTION TO ENFORCE THE LIABILITY OF KINDRED FOR THE SUPPORT OF POOR ADULT PERSONS.

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 7 of chapter 117 of the Gen-
2 eral Laws, as appearing in the Tercentenary Edition,
3 is hereby amended by inserting after the word "court",
4 in line 1, the words: — or a probate court, — so as to
5 read as follows:— *Section 7.* A justice of the su-
6 perior court or a probate court sitting in equity in the
7 county where any one of such kindred to be charged
8 resides, upon complaint of any town or kindred put
9 to expense for the relief or support of such person,
10 may on due hearing assess and apportion upon such
11 of the kindred as it finds to be of sufficient ability and
12 in proportion thereto such amount as he considers
13 reasonable for or towards the support of the person
14 to the time of such assessment, and may enforce pay-
15 ment thereof by execution in common form; but such
16 assessment shall not extend to any expense for relief
17 afforded more than two years previous to the filing of
18 the complaint.

1 SECTION 2. Section 96 of chapter 123 of the Gen-
2 eral Laws is hereby amended by inserting after the

3 word "court" in line 2 of the second paragraph, as so
4 appearing, the words:— or in the probate court for
5 the county in which the respondent or one of the re-
6 spondents resides, — so that said paragraph will read
7 as follows:— Any person making payment for such
8 support may recover the same, by suit in equity in the
9 superior court or in the probate court for the county
10 in which the respondent or one of the respondents re-
11 sides to which any or all of the classes of persons here-
12 inbefore named may be made parties, regardless of the
13 existence of the marriage relation, from any person
14 primarily liable for such support, or may have the
15 amount so paid apportioned among those who are not
16 primarily liable, in proportion to their respective
17 ability to pay, and may recover such apportionment.

1 SECTION 3. Section 6 of chapter 215 of the Gen-
2 eral Laws, as most recently amended by section 2 of
3 chapter 194 of the acts of 1939, is hereby further
4 amended by inserting immediately before the last
5 sentence the following sentence:— They shall also
6 have jurisdiction, concurrent with the superior court,
7 of proceedings in equity under sections seven to twelve
8 of chapter one hundred and seventeen and section
9 ninety-six of chapter one hundred and twenty-three, —
10 so as to read as follows:— *Section 6.* Probate courts
11 shall have jurisdiction in equity, concurrent with the
12 supreme judicial and superior courts, of all cases and
13 matters relative to the administration of the estates
14 of deceased persons, to wills, including questions aris-
15 ing under section twenty of chapter one hundred and
16 ninety-one, to trusts created by will or other written
17 instrument and, in cases involving in any way the
18 estate of a deceased person or the property of an ab-

19 sentee whereof a receiver has been appointed under
20 chapter two hundred or the property of a person under
21 guardianship or conservatorship, to trusts created by
22 parol or constructive or resulting trusts, of all matters
23 relative to guardianship and conservatorship, of suits
24 such as are described in clause (12) of section three of
25 chapter two hundred and fourteen and of all other
26 matters of which they now have or may hereafter be
27 given jurisdiction. They shall also have jurisdiction in
28 equity to enforce foreign judgments for support of a
29 wife or of a wife and minor children against a husband
30 who is a resident or inhabitant of this commonwealth,
31 upon petition of the wife filed in the county of which
32 the husband is a resident or inhabitant. They shall
33 also have jurisdiction in equity, upon petition of an
34 administrator, executor, guardian, conservator, re-
35 ceiver appointed as aforesaid or trustee under a will
36 to enjoin for a reasonable period of time the fore-
37 closure, otherwise than by open and peaceable entry,
38 of a mortgage on real estate, or the foreclosure of a
39 mortgage on personal property, which real estate or
40 personal property is included in the estate or trust
41 being administered by such fiduciary, if in the opinion
42 of the court the proper administration of the estate or
43 the trust would be hindered by such foreclosure. They
44 shall also have jurisdiction, concurrent with the su-
45 perior court, of proceedings in equity under sections
46 seven to twelve of chapter one hundred and seventeen
47 and section ninety-six of chapter one hundred and
48 twenty-three. Jurisdiction under this section may be
49 exercised upon petition, according to the usual pro-
50 cedure in probate courts.