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By Mr. McCarthy, a petition (accompanied by bill, Senate, No. 910) of Robert E. McCarthy for legislation relative of the making and enforcement of orders for support. The Judiciary.

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The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE MAKING AND ENFORCEMENT  
OF ORDERS FOR 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. Section 32D of Chapter 209 of the General Laws  
2 is hereby amended by adding the following paragraphs:

3 In determining the amount of a support order, if any, to  
4 be made, the court shall consider, but is not limited to, the  
5 following factors, to the extent pertinent and raised by the  
6 parties: (a) the net income, assets, earning ability, and other  
7 obligations of the obligor; (b) the number and ages of the  
8 persons to be supported; (c) the expenses incurred by the  
9 obligor and the persons to be supported for the necessities of  
10 life, and the usual standard of living of the persons to be  
11 supported; (d) the assets and net earnings, including provi-  
12 sions for childcare, of the persons to be supported; (e) the  
13 marriage or remarriage of any person being supported; and  
14 (f) the capacity of any person being supported or having cus-  
15 tody of supported children, except persons under eighteen  
16 years of age or attending school full-time, to work or to make  
17 reasonable efforts to obtain employment, including (i) the ex-  
18 tent of employment opportunities in fields in which such person  
19 is suited for employment, (ii) the necessity for and availability  
20 to said person of job training programs, and (iii) the extent  
21 to which said person is needed during business hours by mem-  
22 bers of his or her family and the availability to said person  
23 of child care services.

24 No order shall leave an obligor with less money than is  
25 required to provide him the necessities of life, including food,

26 shelter, utilities, clothing and the reasonable expenses neces-  
27 sary to travel to or obtain employment. No person under an  
28 obligation to support who is unable to comply with such order  
29 or obligation, because of medical reasons or employment diffi-  
30 culties or such other good cause as the court may find, may  
31 be held in contempt or otherwise held liable therefor. Such  
32 person shall be given additional time to comply with such  
33 order or obligation, commensurate with his means and ability  
34 to do so.

1 SECTION 2. Said chapter 209 is hereby amended by adding  
2 the following section after Section 32D:—

3 Section 32E. If the court finds after a hearing that the ob-  
4 ligor is in the aggregate more than four weeks in arrears in  
5 support payments, the court may as a condition of disposition  
6 order the obligor to assign a portion of his periodic earnings  
7 to the person entitled to receive said support. Such assign-  
8 ment shall take effect on the next payment of earnings after  
9 the defendant's employer receives notice thereof. The employ-  
10 er may deduct from said earnings a sum not exceeding one  
11 dollar as reimbursement for costs incurred. The order shall  
12 specify the amount of earnings to be paid to the person sup-  
13 ported and the amount of earnings exempted from such pay-  
14 ment, which the court shall fix at an amount not less than  
15 the minimum sum which the obligor requires for the neces-  
16 sities of life, including food, shelter, utilities, clothing and  
17 reasonable expenses necessary to travel to or obtain employ-  
18 ment. The obligor may move to terminate or modify the  
19 amount of such assignment at any time for good cause. If the  
20 obligor's employment is terminated, the obligor and the em-  
21 ployer shall promptly notify the court and the court may, on  
22 its own motion or upon motion of the complainant, order an  
23 assignment of earnings from any subsequent employer. No  
24 employer may refuse to hire, terminate the employment of or  
25 otherwise disadvantage any employee because any portion of  
26 his earnings has been or may be assigned for support obliga-  
27 tions. Any such action by an employer shall be treated as an  
28 unlawful practice as provided in chapter one hundred and  
29 fifty-one B.

1 SECTION 3. Section one of chapter 273 of the General Laws  
2 is hereby amended by adding the following paragraphs:—

3 In determining the amount of a support order, if any, to  
4 be made, the court shall consider, but is not limited to, the  
5 following factors, to the extent pertinent and raised by the  
6 parties: (a) the net income, assets, earning ability, and other  
7 obligations of the defendant; (b) the number and ages of the  
8 persons to be supported; (c) the expenses incurred by the  
9 defendant and the persons to be supported for the necessities  
10 of life, and the usual standard of living of the persons to be  
11 supported; (d) the assets and net earnings, including provi-  
12 sions for childcare, of the persons to be supported; (e) the  
13 marriage or remarriage of any person being supported; and  
14 (f) the capacity of any person being supported or having  
15 custody of supported children, except persons under eighteen  
16 years of age or attending school full-time, to work or to make  
17 reasonable efforts to obtain employment, including (i) the  
18 extent of employment opportunities in fields in which such  
19 person is trained or suited for employment, (ii) the necessity  
20 for and availability to said person of job training programs,  
21 and (iii) the extent to which said person is needed during busi-  
22 ness hours by members of his or her family and the availa-  
23 bility to said person of child care services.

24 No order shall leave a defendant with less money than is  
25 required to provide him the minimum necessities of life, in-  
26 cluding food, shelter, utilities, clothing and the reasonable ex-  
27 penses necessary to travel to or obtain employment. No person  
28 under an order or obligation to support who is unable to com-  
29 ply with such order or obligation, because of medical reasons  
30 or employment difficulties or such other good cause as the  
31 court may find, may be held in contempt, convicted of a crime  
32 or otherwise held liable therefor. Said person shall be given  
33 additional time to comply with such order or obligation, com-  
34 mensurate with his means and ability to do so. No complaint  
35 made pursuant to this section shall proceed to a trial on the  
36 merits until a probation officer, or if such an officer is not  
37 available, an investigator appointed by the court, shall make  
38 a reasonable attempt to reach a settlement agreement with  
39 the parties in regard to any unpaid support payments. Any

40 statement made by any person in the course of such settlement  
41 discussions shall be deemed to be privileged and shall not be  
42 admissible in evidence in any legal proceeding. No person may  
43 be convicted under this section if he has complied with a  
44 support order issued by another court.

1 SECTION 4. Section 5 of said chapter 273 is hereby amended  
2 by adding the following paragraph:

3 If the court finds after a hearing that the defendant is in  
4 the aggregate more than four weeks in arrears in support  
5 payments, the court may as a condition of disposition order  
6 the defendant to assign a portion of his periodic earnings to  
7 the person entitled to receive said support. Such assignment  
8 shall take effect on the next payment of earnings after the  
9 defendant's employer receives notice thereof. The employer  
10 may deduct from such earnings a sum not exceeding one dol-  
11 lar as reimbursement for costs incurred. The order shall  
12 specify the amount of earnings to be paid to the person sup-  
13 ported and the amount of earnings exempted from such pay-  
14 ment, which the court shall fix at an amount not less than the  
15 minimum sum which the defendant requires for the neces-  
16 sities of life, including food, shelter, utilities, clothing and rea-  
17 sonable expenses necessary to travel to or obtain employment.  
18 The defendant may move to terminate or modify the amount  
19 of such assignment at any time for good cause. If the de-  
20 fendant's employment is terminated, the defendant and the  
21 employer shall promptly notify the court and the court may,  
22 on its own motion or upon motion of the complainant, order  
23 an assignment of earnings from any subsequent employer. No  
24 employer may refuse to hire, terminate the employment of or  
25 otherwise disadvantage any employee because any portion of  
26 his earnings has been or may be assigned for support obliga-  
27 tions. Any such action by an employer shall be treated as an  
28 unlawful practice as provided in chapter one hundred and  
29 fifty-one B.