

By Mr. Flaherty of Boston, petition of Michael F. Flaherty, Robert E. McCarthy, John E. Murphy, Jr., Laurence R. Buxbaum and Max Volterra relative to the making and enforcement of orders for support. The Judiciary.

**The Commonwealth of Massachusetts**

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

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

23 No order shall leave an obligor with less money than is required  
24 to provide him the necessities of life, including food, shelter,  
25 utilities, clothing and the reasonable expenses necessary to travel  
26 to or obtain employment. No person under an obligation to  
27 support who is unable to comply with such order or obligation,  
28 because of medical reasons or employment difficulties or such  
29 other good cause as the court may find, may be held in contempt  
30 or otherwise held liable therefor. Such person shall be given  
31 additional time to comply with such order or obligation,  
32 commensurate with his means and ability 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 obligor  
4 is in the aggregate more than four weeks in arrears in support  
5 payments, the court may as a condition of disposition order the  
6 obligor to assign a portion of his periodic earnings to the person  
7 entitled to receive said support. Such assignment shall take effect  
8 on the next payment of earnings after the defendant's employer  
9 receives notice thereof. The employer may deduct from said  
10 earnings a sum not exceeding one dollar as reimbursement for  
11 costs incurred. The order shall specify the amount of earnings to  
12 be paid to the person supported and the amount of earnings  
13 exempted from such payment, which the court shall fix at an  
14 amount not less than the minimum sum which the obligor  
15 requires for the necessities of life, including food, shelter, utilities,  
16 clothing and reasonable expenses necessary to travel to or obtain  
17 employment. The obligor may move to terminate or modify the  
18 amount of such assignment at any time for good cause. If the  
19 obligor's employment is terminated, the obligor and the employer  
20 shall promptly notify the court and the court may, on its own  
21 motion or upon motion of the complainant, order an assignment  
22 of earnings from any subsequent employer. No employer may  
23 refuse to hire, terminate the employment of or otherwise  
24 disadvantage any employee because any portion of his earnings  
25 has been or may be assigned for support obligations. Any such  
26 action by an employer shall be treated as an unlawful practice as  
27 provided in chapter one hundred and 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 be  
4 made, the court shall consider, but is not limited to, the following  
5 factors, to the extent pertinent and raised by the parties: (a) the  
6 net income, assets, earning ability, and other obligations of the  
7 defendant; (b) the number and ages of the persons to be  
8 supported; (c) the expenses incurred by the defendant and the  
9 persons to be supported for the necessities of life, and the usual  
10 standard of living of the persons to be supported; (d) the assets  
11 and net earnings, including provisions for childcare, of the  
12 persons to be supported; (e) the marriage or remarriage of any  
13 person being supported; and (f) the capacity of any person being  
14 supported or having custody of supported children, except  
15 persons under eighteen years of age or attending school full-time,  
16 to work or to make reasonable efforts to obtain employment,  
17 including (i) the extent of employment opportunities in fields in  
18 which such person is trained or suited for employment, (ii) the  
19 necessity for and availability to said person of job training  
20 programs, and (iii) the extent to which said person is needed  
21 during business hours by members of his or her family and the  
22 availability to said person of child care services.

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

39 discussions shall be deemed to be privileged and shall not be  
40 admissible in evidence in any legal proceeding. No person may be  
41 convicted under this section if he has complied with a support  
42 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 the  
4 aggregate more than four weeks in arrears in support payments,  
5 the court may as a condition of disposition order the defendant to  
6 assign a portion of his periodic earnings to the person entitled to  
7 receive said support. Such assignment shall take effect on the next  
8 payment of earnings after the defendant's employer receives  
9 notice thereof. The employer may deduct from such earnings a  
10 sum not exceeding one dollar as reimbursement for costs  
11 incurred. The order shall specify the amount of earnings to be  
12 paid to the person supported and the amount of earnings  
13 exempted from such payment, which the court shall fix at an  
14 amount not less than the minimum sum which the defendant  
15 requires for the necessities of life, including food, shelter, utilities,  
16 clothing and reasonable expenses necessary to travel to or obtain  
17 employment. The defendant may move to terminate or modify  
18 the amount of such assignment at any time for good cause. If the  
19 defendant's employment is terminated, the defendant and the  
20 employer shall promptly notify the court and the court may, on  
21 its own motion or upon motion of the complainant, order an  
22 assignment of earnings from any subsequent employer. No  
23 employer may refuse to hire, terminate the employment of or  
24 otherwise disadvantage any employee because any portion of his  
25 earnings has been or may be assigned for support obligations.  
26 Any such action by an employer shall be treated as an unlawful  
27 practice as provided in chapter one hundred and fifty-one B.