

By Mr. Reilly, a petition (accompanied by bill, Senate, No. 1079) of Martin T. Reilly and John P. Burke for legislation relative to joint custody. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO JOINT CUSTODY.

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. To insure minor children frequent and continu-
2 ing contact with both parents after the parents have separ-
3 ated or divorced, it becomes necessary to encourage parents
4 to share in the rights and responsibilities of child rearing.

5 In any proceedings where the custody of a minor child is at
6 issue, during the pendency of proceedings or any time there-
7 after, the court may order joint custody as deems necessary
8 and proper.

9 If minor child is at a respective age and capacity to form
10 an intelligent preference as to custody, his wishes shall be
11 given due weight and consideration for an award of custody
12 or modifications thereof.

13 Primary consideration in awarding custody shall be given
14 to both parents jointly in order to secure the best interests
15 of the minor child by providing every effort to continue both
16 parent-child relationships.

17 If joint custody is found not to be in the best interests of
18 the child, then custody shall be awarded to one parent and,
19 wherever possible, assuring the minor frequent contact with
20 the non-custodial parent. Custody shall not be awarded on
21 the basis of the parent's sex or sex and age of the minor.

1 SECTION 2. (a) Affecting the burden of proof, the court
2 shall encourage an award of joint custody. There shall be the
3 presumption that such an award to be in the best interests of
4 the minor where both parents have agreed to joint custody

5 or so agree in open court at a hearing for the specific purpose
6 of determining custody.

7 (b) Upon the discretion of the court joint custody may be
8 awarded in other cases.

9 (c) Availability of all records pertaining to the minor child,
10 including, but not limited to, medical, dental or school records,
11 shall not be denied to a parent simply because that person
12 does not have custody.

1 SECTION 3. To secure the welfare and best interests of the
2 child during his custodial minority, the court may, at
3 any time, terminate or modify any order as deems necessary
4 and proper. Said court actions may be initiated upon the peti-
5 tion of one parent, both or the court.