HOUSE . . . . . No. 1970

By Mr. Mofenson of Newton, petition of the Massachusetts Bar Association and David J. Mofenson relative to divorce and dissolution of marriage. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT RELATING TO DIVORCE AND DISSOLUTION OF MARRIAGE.

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

SECTION 1. Chapter 208 of the General Laws is hereby amended by striking out section 1, as amended by chapter 585 of the acts of 1967, and inserting in place thereof the following section: –

Section 1. A divorce from the bond of matrimony may be decreed for: adultery; impotency; utter desertion continued for one year next prior to the filing of the libel; gross and confirmed habits of intoxication caused by voluntary and excessive use of intoxicating liquor, opium or other drugs; cruel and abusive treatment; or, on the libel of the wife, if the husband, being of sufficient ability, willfully refuses or neglects to provide suitable maintenance for her.

SECTION 2. Said chapter 208 is hereby further amended by striking out section 31, as appearing in the Tercentenary Edition, and inserting in place thereof the following section: –

Section 31. In making an order or decree relative to the custody of children pending a controversy between their parents

or relative to their final custody, the rights of the parents shall be held to be equal and the happiness and welfare of the children shall determine their custody. The court shall consider all relevant factors including: the wishes of the child's parent or parents as to his custody; the wishes of the child as to his custodian; the interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interest; the child's adjustment to his home, school, and community; and, the mental and physical health of all individuals involved.

SECTION 3. The General Laws are hereby further amended by inserting after chapter 208 the following chapter: –

CHAPTER 208A

DISSOLUTION OF MARRIAGE

Section 1. A proceeding for dissolution of marriage shall commence with the filing of a petition for dissolution of marriage by both parties and a dissolution agreement executed by them. Both the petition and the agreement shall be filed in the probate court for the county where either the husband or the wife resides at the time of filing. On motion of either party, the court shall approve the terms of the agreement within 30 days of the date of hearing if it finds, after considering the economic circumstances of the parties shown by the dissolution agreement, and any other evidence the court may order the parties to produce, that the dissolution agreement has made proper provision for custody, support, education, maintenance, insurance, and property disposition. Upon such approval, the agreement shall have the full force and effect of an order of the court. In the event that the court does not approve the agreement, it shall be null and void and of no further effect between the parties.

Section 2. At the conclusion of a one year period from the date of filing, the court, after notice to all parties, shall enter a decree of dissolution of marriage in accordance with the

25 dissolution agreement approved by the court upon a showing by
26 either party that the party has substantially complied with the
27 terms of the agreement.

28 *Section 3.* Upon the entry of a decree of dissolution of
29 marriage the dissolution agreement filed in accordance with
30 section one shall continue to have the full force and effect of
31 an order of the court.

32 *Section 4.* The dissolution agreement may be amended at
33 any time with court approval.

34 Following the entry of a decree of dissolution, the dissolution
35 agreement may be amended by the court upon a petition for
36 modification by either party and presentation of satisfactory
37 evidence of a change in circumstances warranting modification.

38 *Section 5.* The provisions of sections twenty-three to forty-
39 seven, inclusive, of chapter two hundred and eight shall apply to
40 proceedings under this chapter except that the entry of a decree
41 of marriage shall, immediately upon its entry have the effect of a
42 decree absolute of divorce.

43 *Section 6.* The filing fee for a petition for dissolution of
44 marriage shall be the same as that required for filing of a libel for
45 divorce.