

By Mr. Sisitsky, a petition (accompanied by bill, Senate, No. 882) of Alan D. Sisitsky for legislation to improve procedures for the making and enforcement of orders for support. The Judiciary.

## The Commonwealth of Massachusetts

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

### AN ACT IMPROVING PROCEDURES FOR 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 twenty-eight of chapter two hundred  
2 eight of the General Laws is hereby amended by adding the  
3 following paragraph: —

4 If the court finds after a hearing that the obligator is in  
5 the aggregate more than four weeks in arrears in support  
6 payments, the court may as a condition of disposition order  
7 the obligor to assign a portion of his periodic earnings to the  
8 person entitled to receive said support and to notify the em-  
9 ployer of the obligor to forward such portion periodically to  
10 the supported person. Such assignment shall take effect on  
11 the next payment of earnings after the employer of the  
12 obligor receives notice thereof. The employer may deduct  
13 from said earnings a sum not exceeding one dollar as reim-  
14 bursement for costs incurred. The order of assignment shall  
15 specify the amount of earnings to be paid to the person sup-  
16 ported and the amount of earnings exempted from such pay-  
17 ment, which the court shall fix at an amount not less than the  
18 minimum sum which the obligor requires for the necessities  
19 of life, including food, shelter, utilities, clothing and reason-  
20 able expenses necessary to travel to or obtain employment.  
21 The obligor may move to terminate or modify the amount  
22 of such assignment at any time for good cause. If the employ-  
23 ment of the obligor is terminated, the obligor shall promptly  
24 notify the court and the court may, on its own motion or  
25 upon motion of the complainant, order an assignment of earn-  
26 ings from any subsequent employer.

1 SECTION 2. Section thirty-five of chapter two hundred eight  
2 of the General Laws is hereby amended by adding the follow-

3 ing paragraph: —

4 If the court finds after a hearing that the obligor is in the  
5 aggregate more than four weeks in arrears in support pay-  
6 ments, the court may as a condition of disposition order the  
7 obligor to assign a portion of his periodic earnings to the  
8 person entitled to receive said support and to notify the em-  
9 ployer of the obligor to forward such portion periodically  
10 to the supported person. Such assignment shall take effect on  
11 the next payment of earnings after the employer of the  
12 obligor receives notice thereof. The employer may deduct  
13 from said earnings a sum not exceeding one dollar as re-  
14 imbursement for costs incurred. The order of assignment shall  
15 specify the amount of earnings to be paid to the person sup-  
16 ported and the amount of earnings exempted from such pay-  
17 ment, which the court shall fix at an amount not less than  
18 the minimum sum which the obligor requires for the neces-  
19 sities of life, including food, shelter, utilities, clothing and  
20 reasonable expenses necessary to travel to or obtain employ-  
21 ment. The obligor may move to terminate or modify the  
22 amount of such assignment at any time for good cause. If the  
23 employment of the obligor is terminated, the obligor shall  
24 promptly notify the court and the court may, on its own  
25 motion or upon motion of the complainant, order an assign-  
26 ment of earnings from any subsequent employer.

1 SECTION 3. Chapter two hundred nine of the General Laws  
2 is hereby amended by striking out section thirty-two E as  
3 inserted by section two of chapter nine hundred eighty-four  
4 of the Acts of 1977, and inserting in place thereof the follow-  
5 ing:

6 *Section 32E.* If the court finds after a hearing that the  
7 obligor is in the aggregate more than four weeks in arrears  
8 in support payments, the court may as a condition of disposi-  
9 tion order the obligor to assign a portion of his periodic  
10 earnings to the person entitled to receive said support and to  
11 notify the employer of the obligor to forward such portion  
12 periodically to the supported person. Such assignment shall  
13 take effect on the next payment of earnings after the em-  
14 ployer of the obligor receives notice thereof. The employer  
15 may deduct from said earnings a sum not exceeding one

16 dollar as reimbursement for costs incurred. The order of  
17 assignment shall specify the amount of earnings to be paid  
18 to the person supported and the amount of earnings exempted  
19 from such payment, which the court shall fix at an amount  
20 not less than the minimum sum which the obligor requires  
21 for the necessities of life, including food, shelter, utilities,  
22 clothing and reasonable expenses necessary to travel to or  
23 obtain employment. The obligator may move to terminate  
24 or modify the amount of such assignment at any time for  
25 good cause. If the employment of the obligor is terminated,  
26 the obligor shall promptly notify the court and the court may,  
27 on its own motion or upon motion of the complainant, order  
28 an assignment of earnings from any subsequent employer.

1 SECTION 4. Section one of chapter two hundred seventy-  
2 three of the General Laws is hereby amended by adding the  
3 following paragraphs: —

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

26 No order shall leave an obligor with less money than is re-

27 quired to provide him minimum subsistence, including food,  
28 shelter, utilities, clothing, and the reasonable expenses neces-  
29 sary to travel to or obtain employment. No complaint made  
30 pursuant to this section shall proceed to a trial on the merits  
31 until a probation officer, or if such an officer is not available,  
32 an investigator appointed by the court, shall make a reason-  
33 able attempt to reach a settlement agreement with the parties  
34 in regard to any unpaid support payments. Any statement  
35 made by any person in the course of such settlement discus-  
36 sions shall be deemed to be privileged and shall not be ad-  
37 missible in evidence in any legal proceeding. No person may  
38 be convicted under this section if he has complied with a  
39 support order issued by another court.

1 SECTION 5. Section five of said chapter two hundred seventy-  
2 three is hereby amended by adding the following para-  
3 graph: —

4 If the court finds after a hearing that the obligor is in the  
5 aggregate more than four weeks in arrears in support pay-  
6 ments, the court may as a condition of disposition order the  
7 obligor to assign a portion of his periodic earnings to the  
8 person entitled to receive said support and to notify the em-  
9 ployer of the obligor to forward such portion periodically to  
10 the supported person. Such assignment shall take effect on  
11 the next payment of earnings after the employer of the  
12 obligor receives notice thereof. The employer may deduct  
13 from said earnings a sum not exceeding one dollar as reim-  
14 bursement for costs incurred. The order of assignment shall  
15 specify the amount of earnings to be paid to the person sup-  
16 ported and the amount of earnings exempted from such pay-  
17 ment, which the court shall fix at an amount not less than  
18 the minimum sum which the obligor requires for the necessi-  
19 ties of life, including food, shelter, utilities, clothing and  
20 reasonable expenses necessary to travel to or obtain employ-  
21 ment. The obligor may move to terminate or modify the  
22 amount of such assignment at any time for good cause. If the  
23 employment of the obligor is terminated, the obligor shall  
24 promptly notify the court and the court may, on its own  
25 motion or upon motion of the complainant, order an assign-  
26 ment of earnings from any subsequent employer.