

HOUSE No. 1705

By Mr. Rush of Boston, a petition (accompanied by bill, House, No. 1705) of Michael F. Rush for legislation to regulate certain trust agreements in divorce proceedings. The Judiciary.

The Commonwealth of Massachusetts

PRESENTED BY:
Michael F. Rush

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act To Protect the Intentions of Settlers or Donors of Trusts.

PETITION OF:

NAME:

Michael F. Rush

DISTRICT/ADDRESS:

10th Suffolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROTECT THE INTENTIONS OF SETTLORS OR DONORS OF TRUSTS.

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

1 Notwithstanding the provisions of this section or any other general or special law to the
2 contrary, no asset of a discretionary trust created by a person related by consanguinity or affinity,
3 which has as a beneficiary a party to a divorce, shall be considered a marital asset capable of
4 division or assignment by the Court in a divorce proceeding. In the event a party who is not the
5 beneficiary of such discretionary trust has gross income less than 300% of the federal poverty
6 income level applicable to the size of that party's family, then the income of such a discretionary
7 trust may be considered for the purpose of making an order of child support under the Child
8 Support Guidelines or for the purpose of spousal support, but only to the extent that such orders
9 may be necessary to raise the income of the non-beneficiary party to 300% of the federal poverty
10 income level applicable to the size of the party's family. Such trust income may be taken into
11 account without regard to whether the trustee has exercised powers of discretion to make income
12 distributions. For the purposes of determining the size of the non-beneficiary party's family for
13 the purposes of this section, said family shall include the minor children of the divorcing parties.
14 Nothing herein is meant to determine the appropriate level of support of a non-beneficiary party.
15 Any inheritance which has vested in a party after the filing of a divorce complaint, any trust
16 created for the benefit of a party after the filing of a divorce complaint, or the beneficial interest
17 of which has vested after the filing of a divorce complaint, and any gift received by a party after
18 the filing of a divorce complaint, shall not be considered marital property for the purpose of the
19 division of assets pursuant to G.L. c.208, sec.34.