

By Mr. Saggese of Winthrop, petition of Alfred L. Podolski and Alfred E. Saggese, Jr., relative to the payment of alimony and health insurance in certain divorce proceedings. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO ALIMONY AND ASSIGNMENT OF ESTATE; DETERMINATION OF AMOUNT; HEALTH INSURANCE.

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

1 Chapter 208, section 34 of the General Laws as most recently
2 amended by St. 1983, section 77 is hereby amended by striking
3 the entire section inserting in place thereof the following new
4 section: —

5 a) Upon a divorce or upon a complaint in an action brought
6 at any time after a divorce, whether such a divorce has been
7 adjudged in this commonwealth or another jurisdiction, the court
8 of the commonwealth may make a judgment, for either of the
9 parties to pay alimony, either permanently or for such periods of
10 time that the court finds appropriate, to the other only if it finds
11 that the party seeking alimony:

12 1) lacks sufficient property, including property apportioned to
13 such party, to provide for his or her reasonable needs; and

14 2) is unable to support himself or herself through appropriate
15 employment or is custodian of a child whose condition or
16 circumstances make it appropriate that the custodian not be
17 required to seek employment outside the home.

18 b) In addition to or in lieu of a judgment to pay alimony the
19 court shall divide the property of the parties, acquired during the
20 marriage, equally.

21 All property acquired by either spouse during the marriage is
22 presumed to be marital property. This presumption shall be
23 rebutted only by clear and convincing evidence.

24 Any property acquired prior by either spouse prior to the
25 marriage shall be considered to be that spouse's sole and separate
26 property. Such property shall include but not be limited to any
27 property shown to have been acquired by either spouse prior to
28 the marriage as a gift, bequest, devise or inheritance, or to have
29 been paid for by either spouse with funds so acquired, shall remain
30 the property of said spouse and may not be subject to property
31 division under this section except upon a finding by the court that
32 a refusal to divide such property will create a hardship upon the
33 other spouse or the children of the marriage. The court shall also
34 consider the desirability of awarding the family home or the right
35 to live therein for a reasonable period to the spouse having custody
36 of the minor children of the marriage.

37 When the court makes an order for alimony on behalf of a
38 spouse, and such spouse is not covered by a private group health
39 insurance plan, said court shall determine whether the obligor
40 under such order has health insurance on a group plan available
41 to him through an employer or organization that may be extended
42 to cover the spouse for whom support is ordered. When the court
43 has determined that the obligor has such insurance, said court
44 shall include in the support order a requirement that the obligor
45 exercise the option of additional coverage in favor of such spouse.