

CHAPTER 4

SEPARATE SUPPORT

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South Coastal Counties Legal Services, Inc., New Bedford

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GENERAL OVERVIEW

What is Separate Support?

Separate support is court-ordered support from your spouse, awarded in a lawsuit specifically for separate support. You can file for separate support in the Probate and Family Court even when you are not asking for a divorce, but just want support for yourself or your children.

The lawsuit for separate support can cover several types of support and awards, including

- support for yourself;
- custody and support of your children;
- health insurance for you and/or your children;
- payment of the children’s educational expenses;
- orders for your spouse to vacate from your home;
- orders to convey property to you; and
- restraining orders protecting you from abuse by your spouse.

For more about the types of support and awards that are available in a lawsuit for separate support, see “Relief,” below.

Under the law in Massachusetts, there are a number of circumstances when you can ask for separate support, such as

- when you are living apart from your spouse for justifiable cause;
- you have been deserted; or
- your spouse is not providing suitable support for you (even if you still live together).

See “Meeting the Legal Requirements—Eligibility,” below, for more about the eligibility for separate support.

How Does Separate Support Differ from a Divorce?

A divorce differs from a lawsuit for separate support in the following ways:

- a divorce terminates the marriage, but a lawsuit for separate support does not;
- a divorce makes a complete and final settlement of the marital property and any liabilities between the spouses, but a lawsuit for separate support does not;
- the amount of support that the court orders might be different depending on whether the action is for divorce or for separate support; and
- the grounds to get separate support are different from the grounds for divorce.

In the matters pertaining to the children, such as court orders for custody, child support, medical insurance, and visitation, the same principles generally apply in both a divorce case and in a lawsuit for separate support, and the results for the children generally would not be different.

If you do not want to ask for a divorce, you still can ask for separate support. In a lawsuit for separate support, the Probate and Family Court can order your spouse to help support you, without any consideration of a divorce. However, if you do file for divorce, you would not also file for separate support.

The statutory provisions for divorce generally appear in G.L. c. 208, while the statutory provisions for separate support generally appear in G.L. c. 209, § 30 et seq. The historical view is that the divorce laws and the laws for separate support constitute a complete statutory system intended to cover the field of support both before and after divorce. *See, e.g., Orlandella v. Orlandella*, 370 Mass. 225 (1976).

For a further discussion of the distinctions between the actions and judgments of divorce and separate support, see Monroe L. Inker, Charles P. Kindregan and Patricia A. Kindregan, *Family Law and Practice* (Vol. 2 and 3 *Massachusetts Practice Series*) § 26.2 and Ch. 61 (West 3d ed. 2003 & Supp. 2008).

How Does Separate Support Differ from Alimony?

Both “separate support” and “alimony” refer to types of “spousal support.” Both separate support and alimony are support for the wife or the husband ordered by the court. In this sense, separate support and alimony are alike. See Chapter 6, Alimony, Pensions and Other Relief, if you want support in a divorce. See Chapter 8, Child Support, if you want support for your children.

The differences between separate support and alimony can be summarized as follows:

- Separate support can be awarded in a lawsuit for separate support, and alimony can be awarded in a divorce case.
- The divorce court must look at the statutory factors under G.L. c. 208, § 34 when deciding how much alimony to order. In a lawsuit for separate support, however, the Probate and Family Court must look at a different set of factors under G.L. c. 209, § 32. See “How Is the Amount of Support Determined in a Lawsuit for Separate Support?” below.
- A judgment of divorce will include a final determination regarding alimony, marital property, and debts under G.L. c. 208, § 34; whereas a judgment of separate support does not determine the spouse’s rights under G.L. c. 208, § 34.

The amount of spousal support (whether separate support or alimony) that the court orders generally will depend on the respective needs and resources of each spouse. The incomes and the expenses of the spouses can be compared to determine if one spouse needs support and the other spouse has the ability to provide it. Temporary court orders for spousal support (whether separate support or alimony) generally are determined based on these principal factors. In this regard, separate support and alimony are alike.

However, in some cases, the differences between separate support and alimony can be significant. In a judgment of divorce, alimony can be ordered in connection with the final division of marital assets and the assignment of responsibilities for debts. The divorce court also might award alimony at the end of a long-term marriage or to equalize the parties’ potentials for earning income or for acquiring other property. The factors that apply to alimony under the divorce law, G.L. c. 208, § 34, are generally not considered in connection with separate support.

Practice Note

In some cases, an attorney’s advice may be important to help you to decide what to do and to help you get what you need. If your case involves substantial financial issues or debts, economic inequality with your spouse, domestic violence, potential custody disputes, plans to relocate out of state, immigration problems, or other complex legal issues, then it is advisable to consult with an attorney.

How Does Separate Support Differ from a Legal Separation?

“Separate support” commonly means the court-ordered support that you get from your spouse as a result of a lawsuit for separate support. Although the term “legal separation” is commonly used, in Massachusetts there is no specific lawsuit to get a legal separation. For married people who separate in Massachusetts, there are lawsuits for separate support, divorce, custody of children, and for abuse prevention—all of which may result in court-ordered support and other court orders.

“Legal separation” commonly means any actual separation of spouses, that has some legal recognition. In Massachusetts, a separation might be recognized by court orders in the types of lawsuits mentioned above. In some of these cases, there might be a formal written agreement between the spouses that was approved and recognized by the court. Some people might be talking about the formal agreement between spouses when they mention a legal separation.

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This formal written agreement between spouses usually is called a “separation agreement” (or sometimes, a “divorce agreement”). A separation agreement usually makes provisions for the children, for support, health insurance, the disposition of marital property and debts (when applicable), and for all other matters that should be decided when spouses divorce.

You can use a separation agreement in a lawsuit for separate support. It is required in a joint petition for divorce by G.L. c. 208, § 1A. However, a separation agreement does not deprive the Probate and Family Court of its power to decide on the matters included in the agreement. A separation agreement may not be binding until it is approved by a judge, since the court can modify or reject it. *See, e.g., Madden v. Madden*, 359 Mass. 356 (1971).

WHAT TO DO TO GET SEPARATE SUPPORT—THE FIRST STEPS

Meeting the Legal Requirements—Eligibility

To get an order of separate support from the court, you will have to meet the basic requirements of the law for people who are entitled to this type of support. These requirements are

- that you are married;
- that the defendant is your spouse (that is, your husband or wife); and
- that one of the following is true:
 - that your spouse has failed to provide suitable support to you without justifiable cause;
 - that your spouse has deserted you;
 - that you are living apart from your spouse for justifiable cause; or
 - that you have justifiable cause to live apart from your spouse (whether or not you actually are living apart).

If you think of these legal requirements in terms of your eligibility to be awarded separate support by the Probate and Family Court, then you can be eligible for separate support even if you still live with your spouse, as long as if you have justifiable cause to live apart or if your spouse has failed to provide suitable support without justifiable cause. On the other hand, if you do live apart from your spouse, you must also show that there is justifiable cause for living apart.

What Is Justifiable Cause for Living Apart?

The term “justifiable cause” is used for describing the grounds for separate support by the statute, G.L. c. 209, § 32. When you fill out a complaint for separate support, you may check off boxes that say you are “actually living apart from defendant for justifiable cause” or that you have “justifiable cause for living apart.” A sample complaint is included as **Exhibit 4A**.

Justifiable cause for living apart includes the following:

- cruel and abusive treatment;
- desertion;
- adultery;
- confirmed habits of intoxication;
- gross nonsupport;
- other fault grounds associated with divorce.

Justifiable cause generally requires proof of marital misconduct. Conduct that gives justifiable cause for living apart from your spouse includes offenses that are less severe than those required for a divorce. The judge may take into account all the circumstances that justify living apart.

For example, there was justifiable cause for a wife's living apart from her husband in the following circumstance: The husband had kept late hours, called the wife bad names in front of their children, threw an object at her, and told her to get out. *Mezoff v. Mezoff*, 2 Mass. App. Ct. 799 (1974). However, in another case, there was no justifiable cause for a husband's living apart from his wife, where his complaint was that she had exhibited inappropriate expressions of anger and made suicide attempts while suffering from mental illness. *Hano v. Hano*, 5 Mass. App. Ct. 639 (1977).

Completing and Filing the Necessary Papers

To commence a lawsuit for separate support, you will have to fill out a complaint for separate support. A sample complaint for separate support is included as **Exhibit 4A**. You can get the appropriate forms from the local probate and family court.

On the complaint form, you must check off one or more of the boxes in paragraph 4 of the complaint, and where there are lines (following "to wit"), you must provide a brief statement of the factual basis for the allegations of justifiable cause if you have checked off that box.

In addition to your complaint for separate support, you may need to fill out some additional forms that are described below. Then you will have to take the completed forms and file them with the probate and family court located in the appropriate county.

Forms Used to File for Separate Support

The following forms are needed to file for separate support:

- a complaint for separate support (see the sample complaint in **Exhibit 4A**);
- an affidavit disclosing prior care or custody proceedings (this is required if you have minor children from the marriage) (see sample affidavit in **Exhibit 5D**);
- an affidavit of indigency (this is used if you have a very low income and want the state to pay for the costs of service of the complaint on the defendant) (see sample affidavit in **Exhibit 2A**);
- a financial statement (this is required for the first hearing in court and sometimes with the filing) (see sample financial statement in **Exhibit 4C**); and
- a certified copy of the marriage certificate (you can get this from the city or town where you were married).

Finding the Appropriate Court

The discussions of separate support in this chapter focus on the Probate and Family Court and the provisions of G.L. c. 209, § 32. There are alternative provisions in G.L. c. 209, § 32F for filing complaints for separate support in the District Court or in the Boston Municipal Court. You should consult other resources or an attorney if you want to file your complaint for separate support in the District Court or Boston Municipal Court pursuant to G.L. c. 209, § 32F.

Generally, you may file your complaint for separate support in the probate and family court in the county where either you or your spouse now reside. However, if you have left the county where you had lived together with your spouse and your spouse still resides in that county, then you must file your complaint for separate support in the county where your spouse still resides. General Laws c. 209, § 34 governs the venue for a complaint for separate support. If you are only asking for child support and not for separate spousal support, you can file a complaint for custody and child support in the county wherein the children reside. G.L. c. 209, § 37.

Arranging Notice and Service of the Lawsuit

After you have filed the complaint for separate support in the appropriate court, you will have to arrange for notice and service of your complaint for separate support and a domestic relations summons on the defendant (your spouse). The court will issue you a summons upon request. However, it will be up to you to arrange for the service of the lawsuit on your spouse.

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You will have to make arrangements with a constable or sheriff in the locality where your spouse resides in order to serve him or her with your lawsuit. The sheriff or constable will need to have the original summons and a copy of the complaint. The sheriff or constable will charge you for these services unless you have obtained the approval of the court on your affidavit of indigency for the state to pay the costs of service. If the court did approve your affidavit of indigency, then you will have to provide a copy of the determination of indigency to the sheriff or constable, along with the summons and the complaint for separate support. A sample affidavit of indigency is included as **Exhibit 2A**.

THE HEARING

Your Motion and How to Schedule a Hearing

After you file your complaint for separate support, you can file a motion for temporary orders and schedule a hearing at the court to get temporary orders for support in your lawsuit. In an emergency, such as when you need a restraining order or a vacate order, you can file your motion with your complaint for separate support at the local probate and family court. The court can make emergency orders to protect you from abuse or to order your spouse to vacate the marital home in the appropriate circumstances.

If you do not go to the local probate and family court for emergency orders, you will have to contact the registry of the probate and family court in the appropriate county to find out when you can have a motion heard and where you should send the motion papers. You can find a listing for the probate and family court in your county by looking in the business pages of your telephone directory under “Massachusetts—Trial Court” or on the court’s Web site at <http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/#county>. A clerk at the Probate and Family Court can provide you with the appropriate forms and tell you what dates are available for your motion to be heard. (However, a court clerk cannot give you legal advice about what to do.)

You will have to fill out a Motion form, or prepare a motion on a blank white piece of paper. A sample motion is included as **Exhibit 4B**. Along with the motion, you also can file an affidavit, which is a written statement made by you or another person in support of your motion under the pains and penalties of perjury. You will have to file the motion with the registry of the court, while sending a copy of the motion (that includes a notice of the date, time, and place of the hearing) to the defendant (or to his or her attorney, if the attorney already has filed a formal appearance with the court or has submitted the defendant’s answer to the court). The court will then schedule the hearing at the date, time, and place that you have specified (assuming that you have confirmed that this date and place were available). The parties will be expected to appear at that time.

What to Expect at the Hearing for Separate Support

The first thing to do when you arrive at the courthouse is to find out which courtroom has been assigned for your case. Then you must check in with the assistant register who normally will be sitting in front of the judge’s bench in that courtroom. You probably will be asked to go somewhere to meet with the Probation Office (also known as the Family Service Office) and your spouse.

Unless there is a restraining order, you will be expected to meet in the courthouse with your spouse and a court employee, called a “probation officer” or a “family service officer.” If you have a restraining order against your spouse (i.e., abuse protection orders or Chapter 209A orders), then you cannot be required to sit in the same room with your spouse; however, you may still be asked to communicate with the probation officer about your case.

The job of the probation officer at these hearings is to identify contested issues presented by your and your spouse’s motions and to try to mediate them. See Chapter 2, Overview of the Probate and Family Court, for more information about probation officers. Your spouse will have to fill out a financial statement to be submitted to the court under the pains and penalties of perjury. You have a right to see his or her financial statement, and should take the time to review it. Since the financial statements show each party’s income and expenses, as well as assets and debts, they are used by the court to determine how much support will be awarded, if any.

The issues presented by your motion will be resolved either by an agreement between you and your spouse or by the judge's decision. If you make an agreement (for example, how much support will be paid), that agreement will be set down in writing and the judge will be asked to approve the agreement as a temporary order of the court. When the agreement becomes an order of the court, both parties are required to follow it until further order from the court. If you and your spouse cannot agree on an issue, you can ask the judge to decide that issue. Each party will be given a brief opportunity to explain his or her side of the case to the judge; usually, no witnesses will testify. The probation officer might report to the judge about your case to help the judge to better understand the issues being presented. In some cases, the judge might announce his or her decision from the bench; in other cases, the judge might send notice of his or her decision to the parties later by mail.

RELIEF—WHAT YOU CAN ASK THE COURT TO DO

Types of Relief

Although this chapter has focused on spousal support for you personally, you actually can ask for a wide variety of relief from the Probate and Family Court in your lawsuit for separate support. You can ask for

- spousal support, including regular support payments and health insurance coverage for yourself, G.L. c. 209, § 32;
- court orders with respect to your minor children, including orders for custody, visitation, and child support, G.L. c. 209, §§ 37, 38 (under the Custodial Presumption Law, G.L. c. 209, § 38, the court must take into account evidence of abuse in deciding custody and visitation);
- additional financial relief, including a wage assignment for the payment of support, court orders for the payment of your costs of maintaining the lawsuit (including attorney fees), and court orders for the attachment of property, G.L. c. 209, § 33;
- additional financial relief, in cases of abandonment by your spouse, including court orders for the transfer of property to you or authorizing you to sell, convey, mortgage, receive, or otherwise use and control property, G.L. c. 209, § 30;
- protective orders, including restraining orders and vacate orders, G.L. c. 209, § 32;
- a judgment that establishes your right to convey and bequeath your own property as if you were single and giving your spouse no rights under Massachusetts laws to waive the provisions of your will or to make a claim against your estate in the event of your death while you are still married. This relief is available if you were deserted or if you are living apart from your spouse for justifiable cause. G.L. c. 209, § 36.

The provision and maintenance of health insurance coverage for you by your spouse will be ordered by the court whenever it determines that your spouse has health insurance available through employment or at a reasonable cost, which can cover you.

Support orders for the children of separated parents in a lawsuit for separate support are like child support orders in other Massachusetts cases. The court has broad powers to make orders relative to the dependent children's care, custody, education, and maintenance. The amount of child support generally is determined according to the Massachusetts Child Support Guidelines. Child support is determined before separate spousal support is considered. The court orders also may provide for the children's health care coverage, the payment of the children's uninsured medical expenses, their educational costs, and other expenses related to their care or maintenance.

In a case of abandonment, the court can authorize you to sell, convey, mortgage, or receive both real property and personal property. The court can order your spouse to transfer or convey property to you. Such property includes your home, motor vehicles, furniture, and furnishings. The court's authorization can extend to properties that belonged (jointly or individually) to your spouse. The court's authorization also can allow you to dispose of the proceeds or property as if you were the sole owner. The court's authorizations must be specific and generally will be granted only after your spouse has been given notice and an opportunity to be heard at a court hearing. These

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authorizations generally are given only to the extent necessary to provide for your adequate support. “Abandonment” as used in this law means that your spouse has left you and does not intend to return. G.L. c. 209, § 30.

In an action for separate support, you also may be able to attach your spouse’s property (i.e., freeze the property until the action is resolved) in order to secure your right to receive support.

A nonresident married woman who has been abandoned in another state and whose husband has property in Massachusetts may find relief under G.L. c. 209, § 31.

How is the Amount of Support Determined in a Lawsuit for Separate Support?

The suitable amount of spousal support in a lawsuit for separate support generally is what is reasonably necessary to support the separated spouse. The amount of spousal support that the court orders generally will depend on the respective needs and resources of the spouses. The incomes and the expenses of each spouse can be compared to determine if one spouse needs support and the other spouse has the ability to provide it. The court also will take into account the condition of life of the parties and their conduct. Separate spousal support is considered after child support is determined.

Unlike child support determinations, which must follow the Massachusetts Child Support Guidelines, there is no fixed formula to calculate how much separate support is fair and adequate. However, in a lawsuit for separate support in the Probate and Family Court, the court must consider the specific factors listed in G.L. c. 209, § 32 in setting the amount of spousal support.

The statutory factors for determining separate support include the following:

- the net income, assets, earning ability, and other obligations of your spouse;
- how many children must be supported, and how old they are;
- the living expenses of you, your spouse, and your children;
- the assets and net income of you and any of your children, including a deduction for child care;
- your current marital status;
- whether your spouse has any other children to support besides your children, even if there is not a court order to support those children and even if those children were born out of wedlock; and
- whether you or your children (if they are eighteen or older) are working or making reasonable attempts to find work. The court also will consider the necessity or availability of job training for you to find work, the need for you to be with your children during business hours, and whether you can obtain child care.

Practice Note

Even if your husband or your wife has been paying some spousal support voluntarily, the court can order an increase in the amount of support if the voluntary amount is inadequate. See *Brewer v. Brewer*, 329 Mass. 482 (1952) (husband’s voluntary support payments were found to be inadequate).

No separate support order can leave the payor spouse with less money than he or she needs to live (i.e., the costs of food, shelter, utilities, and clothing) and to travel to work or to obtain work. G.L. c. 209, § 32.

Protection from Abuse

No one should have to suffer from the abuse of his or her spouse during a separation. If you are afraid that your spouse will abuse you, you can ask the court to make abuse protection orders as part of a lawsuit for separate support. Alternatively, you can file a complaint for protection from abuse under G.L. c. 209A in the Probate and Family Court or in another court, such as your local district court.

In a lawsuit for separate support, G.L. c. 209, § 32 provides for protective orders. The Probate and Family Court can

- prohibit your spouse from imposing any restraint upon your personal liberty;
- hold that violations of the protective orders are criminal in nature, and criminal proceedings may be instituted for violations of these orders; and
- order your spouse to vacate from your home.

Once you have protective orders, you can call the police for help whenever you have a problem. The police have the power to arrest any person whom a law officer witnesses or has probable cause to believe has violated a restraining order that has been issued pursuant to G.L. c. 209, § 32. The safety of the victim and any involved children is paramount in any decision to arrest. *See* G.L. c. 209A, § 6(7).

You can ask the court to order your spouse out of the marital home in a lawsuit for separate support or in a divorce. The provisions for vacate orders, G.L. c. 208, § 34B, include the following:

- The court can order your spouse to vacate the marital home for a period of time not exceeding ninety days, and for additional ninety-day periods, during the pendency of the action.
- The court can enter the appropriate vacate orders if it finds, after a hearing, that the health, safety, or welfare of the moving party or any minor children residing with the parties would be endangered or substantially impaired by a failure to enter such an order.
- The court can enter emergency vacate orders, without notice to your spouse, if you demonstrate that there is a substantial likelihood that the opposing party poses immediate danger to your health, safety, or welfare or to that of your minor children. The court will notify your spouse of the vacate order and give him or her an opportunity to be heard as soon as possible (not later than five days after the order is entered) on the question of continuing the temporary vacate order.
- The court can issue an order to vacate even though your husband or wife is not residing in the marital home at the time of its issuance, or even if you have left the marital home and have not returned there because of fear for your safety or for the safety of any minor child.

General Laws c. 208, § 34C makes a violation of a vacate order issued pursuant to Section 34B a criminal offense, punishable by a fine of not more than \$5,000 or by imprisonment for not more than 2½ years in a house of correction, or both.

Whenever possible, the law requires that a complainant must be provided information about protective orders in the complainant's native language.

When considering a request for protective orders, the court will follow certain procedures. Usually a judge will cause a search to be made of the statewide domestic violence records and will review the resulting data to determine whether the defendant has a civil or criminal record involving domestic or other violence. If the judge finds that an outstanding warrant exists against the defendant, the judge usually will order that the police be notified. If the judge finds that an imminent threat of bodily injury exists to the petitioner, the judge will notify the police to take all necessary actions to execute the warrant and arrest the defendant as soon as possible.

EXHIBIT 4A—Complaint for Separate Support

Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department
Docket No.
Your County Division

Complaint For Separate Support

Your Name, Plaintiff
v.
Spouse's Name, Defendant

1. Plaintiff, who resides at [your address] (City of Town) (County) (State)
is the spouse of the defendant, who now resides at [your spouse's address] (City or Town) (County) (State)

2. The parties were married at city/town and state (from your marriage certificate)
on date you were married and last lived together at city/town, county and state
where you last lived together on date you last lived together

3. The minor child, and date(s) of birth, of this marriage is - are:
(child's name (dob))
(child's name (dob))

Check one that applies

4. Plaintiff:
[] is not, without justifiable cause, being provided with suitable support by defendant
[] has been deserted by defendant
[X] is actually living apart from defendant for justifiable cause, to wit:
[for example] defendant cruelly abused me. Defendant moved out and does not want to live with me. Defendant is intoxicated too often.
[] has justifiable cause for living apart, to wit:

Check all that apply

5. Wherefore, plaintiff requests that the Court:
[X] establish that such living apart from the defendant is for justifiable cause on h part
[X] prohibit defendant from imposing any restraint on plaintiff's personal liberty
[X] grant him/her custody of the above-named child
[X] order a suitable amount for support of the plaintiff and said minor child
[] order a conveyance of the real estate located at
standing in the name of
as recorded with
Registry of Deeds, Bk. Pg.
[]

Dated: Today's date
Signature of Attorney Your signature (if no attorney)
Attorney's B.B.O.#
Plaintiff's Signature if Pro Se
Print Name & Address

**Commonwealth of Massachusetts
The Trial Court**

_____ Division **Probate and Family Court Department** Docket No. _____

Complaint For Separate Support

_____, Plaintiff

v.

_____ Defendant

For Plaintiff:

Address _____

Tel No. () _____

B.B.O. # _____

Filed _____, 20 _____

Judgment _____, 20 _____

Temporary Orders _____, 20 _____

For Defendant:

Address _____

Tel No. () _____

B.B.O. # _____

Documents filed:

Marriage Certificate

Plaintiff's Financial Statement

Defendant's Financial Statement

Service on Summons

Child Support Guidelines Worksheet

Affidavit Disclosing Care or
Custody Proceedings

INSTRUCTIONS

Refer to Massachusetts General Laws Chapter 209 and Massachusetts Rules of Domestic Relations Procedures.

1. A certified copy of your civil marriage certificate must be filed with this Complaint.
2. Recite street address, city or town and county in paragraphs one and two.
3. The allegations in paragraph four must comply with General Laws Chapter 209, Section 32 and Massachusetts Rules of Domestic Relations Procedure Rule 8.
4. All requests for temporary relief must be made by motion, although several prayers may be contained in one. For temporary restraining orders, see Mass. R. Dom. Rel. Rule 65, affidavit requirement.
5. If attachment or trustee process is desired, a motion with affidavit must be filed. A certificate of insurance is normally not required in domestic relations cases. See Massachusetts Rules of Domestic Relations Procedure Rule 4.1 and 4.2.
6. Plaintiff must sign this Complaint if appearing pro se; otherwise plaintiff's attorney must sign and give his address and B.B.O. number in the space provided.

EXHIBIT 4B—Motion for Separate Support

Commonwealth of Massachusetts
The Trial Court

Your County Division Probate and Family Court Department Docket No. _____

Your Name
Plaintiff/Petitioner

v.

Spouse's Name
Defendant/Respondent

MOTION FOR
Separate Support

Now comes Your name (name of moving party), the plaintiff/defendant/petitioner/respondent, in this action who moves this Honorable Court as follows: (1) support for the plaintiff; (2) child support for the minor children of the parties; (3) custody of the children; (4) health insurance; (5) conveyance of the 1992 Chevrolet motor vehicle for the exclusive use of the plaintiff.

[Get this information from the Court Register.]

NOTICE OF HEARING

This Motion will be heard at the Probate & Family Court in Centerville, Mass. (city) on June 1, 1998 (month/day/year) at 9:00 a.m. (time of hearing)

Your Signature (signature)

Your Name (PRINT name)

Your Address (street address)

(city or town) (state) (zip code)

Date: Today's Date Tel. No. () Your Phone Number (if any)

The within motion is hereby **ALLOWED — DENIED.**

Date _____ Justice of the Probate and Family Court

- INSTRUCTIONS**
1. Generally, refer to Mass.R.Civ.P./Mass.R.Dom.Rel.P. 6 and 7; Probate Court Rules 6, 29, and 29B.
 2. If the opposing party is represented by an attorney who has filed an appearance, service of this motion **MUST** be made on the attorney.
 3. Certificate of Service on Reverse side must be completed.
- CJ-D 400 (8/96)

EXHIBIT 4C—Financial Statement (Short Form)

Commonwealth of Massachusetts
The Trial Court

Your county Division Probate and Family Court Department Docket No. _____

Financial Statement
(SHORT FORM)

Your name v. Spouse's name
Plaintiff/Petitioner Defendant/Petitioner

INSTRUCTIONS: If your income equals or exceeds \$75,000.00 you must complete the LONG FORM financial statement, unless otherwise ordered by the Court. All questions on both sides of this form must be answered in full or the word "none" inserted. If additional space is needed for any answer, an attached sheet may be filed in addition to, but not in lieu of, the answer. Information contained herein is confidential and only available to the parties and persons authorized under Probate and Family Court Department Supplemental Rule 401.

1. Your Name Your name Soc. Sec. No. your SSN
Address Your address (unless imposed by the court)
(street and no.) (city or town) (state) (zip)
Age 30 Tel. No. (508) 999-9999 No. of Children living with you 1
Occupation your occupation Employer your employer
Employer's Address employer's address
(street and no.) (city or town) (state) (zip)
Employer's Tel. No. () employer's # Health Ins. Coverage [] YES [] NO
Health Insurance Provider Mass Health Cert. No. _____

2. Gross Weekly Income from All Sources (strike inapplicable words)

| | | |
|---|----|----------|
| a). Base pay from salary, wages | \$ | <u>0</u> |
| b). Self Employment Income (attach a completed Schedule A) | \$ | <u>0</u> |
| c). Income from overtime-commissions-tips-bonuses-part-time job | \$ | <u>0</u> |
| d). Dividends - interest | \$ | <u>0</u> |
| e). Income from trusts or annuities | \$ | <u>0</u> |
| f). Pensions and retirement funds | \$ | <u>0</u> |
| g). Social Security | \$ | <u>0</u> |
| h). Disability, unemployment insurance or worker's compensation | \$ | <u>0</u> |
| i). Public Assistance (welfare, A.F.D.C. payments) | \$ | <u>0</u> |
| j). Rental from Income Producing Property (attach a completed Schedule B) | \$ | <u>0</u> |
| k). All other sources (including child support, alimony) | \$ | <u>0</u> |

each one ↙

l). Total Gross Weekly Income (a through k) \$ 0

3. Itemize Deductions from Gross Income

| | | |
|---|----|----------|
| a). Federal income tax deductions (claiming _____ exemptions) | \$ | <u>0</u> |
| b). State income tax deductions (claiming _____ exemptions) | \$ | <u>0</u> |
| c). F.I.C.A./Medicare | \$ | <u>0</u> |
| d). Medical Insurance | \$ | <u>0</u> |
| e). Union Dues | \$ | <u>0</u> |

f). Total Deductions (a through e) \$ 0

4. Adjusted Net Weekly Income
2 (l) minus 3 (f) \$ 0

5. Other Deductions from Salary

| | | |
|---|----|----------|
| a). Credit Union (Loan Repayment or Savings) | \$ | <u>0</u> |
| b). Savings | \$ | <u>0</u> |
| c). Retirement | \$ | <u>0</u> |
| d). Other - Specify (such as Deferred Compensation or 401K) | \$ | <u>0</u> |

e). Total Deductions (a through d) \$ 0

6. Net Weekly Income 4 minus 5 (e) \$ 0

7. Gross Yearly Income from Prior Year \$ 20,000
(attach copy of all W-2 and 1099 forms for prior year)

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CHAPTER 4: SEPARATE SUPPORT

8. **Weekly Expenses** (Do Not Duplicate Weekly Expenses - Strike Inapplicable Words)

| | | | |
|---------------------------------|--------|---|-------|
| a) Rent - Mortgage (PIT) | \$ 100 | l) Life Insurance | \$ 0 |
| b) Homeowner's/Tenant Insurance | \$ 0 | m) Medical Insurance | \$ 0 |
| c) Maintenance and Repair | \$ 0 | n) Uninsured Medicals | \$ 5 |
| d) Heat (Type <u>Gas</u>) | \$ 50 | o) Incidentals and Toiletries | \$ 10 |
| e) Electricity and/or Gas | \$ 20 | p) Motor Vehicle Expenses | \$ 40 |
| f) Telephone | \$ 15 | q) Motor Vehicle Loan Payment | \$ 0 |
| g) Water/Sewer | \$ 0 | r) Child Care | \$ 40 |
| h) Food | \$ 100 | s) Other (attach additional schedule, if necessary) | \$ 0 |
| i) House Supplies | \$ 10 | <u>cable TV</u> | \$ 10 |
| j) Laundry and Cleaning | \$ 10 | | \$ 0 |
| k) Clothing | \$ 10 | | \$ 0 |

Total Weekly Expenses (a through s) \$ total

your weekly expenses

9. **Counsel Fees**

a) Retainer amount(s) paid to your attorney(s) \$ 0

b) Legal fees incurred, to date, against retainer(s) \$ 0

c) Anticipated range of total legal expense to prosecute this action \$ 0 to \$ 0

10. **Assets** (Attach additional schedule for additional real estate and other assets, if necessary)

a) Real Estate none (or list any)

Location _____

Title _____

Fair Market Value \$ _____ - Mortgage(s) \$ _____ = Equity \$ 0

b) IRA, Keough, Pension, Profit Sharing, Other Retirement Plans

List Financial Institution or Plan Names and Account Numbers

none (or list any)

_____ \$ 0

_____ \$ 0

_____ \$ 0

c) Tax Deferred Annuity Plan(s) _____ \$ 0

d) Life Insurance: Present Cash Value _____ \$ 0

e) Savings & Checking Accounts, Money Market Accounts, and CDs - which are held individually, jointly, in the name of another person for your benefit, or held by you for the benefit of your minor child(ren). List Financial Institution Names and Account Numbers

Chester Bank checking \$ 100

_____ \$ 0

_____ \$ 0

f) Motor Vehicles

Fair Market Value \$ 800 - Motor Vehicle Loan \$ 0 = Equity \$ 800

Fair Market Value \$ _____ - Motor Vehicle Loan \$ _____ = Equity \$ 0

g) Other (such as - stocks, bonds, collections)

_____ \$ 0

_____ \$ 0

h) Total Assets (a through g) \$ 900

11. **Liabilities** (DO NOT list weekly expenses but DO list all liabilities)

| Creditor | Nature of Debt | Date of Origin | Amount Due | Weekly Payment |
|---|--------------------|----------------|-----------------|----------------|
| a) <u>Express</u> | <u>credit card</u> | <u>2006</u> | <u>1,000</u> | <u>0</u> |
| b) <u>Dr. Smiley</u> | <u>dentist</u> | <u>2006</u> | <u>500</u> | <u>0</u> |
| c) <u>Ring-A-Ling</u> | <u>phone</u> | <u>2006</u> | <u>500</u> | <u>0</u> |
| d) _____ | _____ | _____ | _____ | _____ |
| e) Total Amount Due and Total <u>Weekly</u> Payment | | | \$ <u>2,000</u> | \$ <u>0</u> |

12. Number of Years you have paid to Social Security 10 years

I certify under the penalties of perjury that my income and expenses, assets, and liabilities as stated herein are true to the best of my knowledge and belief. I have carefully read this financial statement and I certify the information is true and complete.

Date Today's date Signature your signature

STATEMENT BY ATTORNEY

I, the undersigned attorney, am admitted to practice law in the Commonwealth of Massachusetts -- am admitted pro hoc vice for the purposes of this case -- and am an officer of the court. As the attorney for the party on whose behalf this Financial Statement is submitted, I hereby state to the court that I have no knowledge that any of the information contained herein is false.

Attorney's Signature _____ Date _____

Address _____ Tel. No. () _____

B.B.Q. # _____

EXHIBIT 4D—Domestic Relation Summons

Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department

BRISTOL Division Docket No. _____

Divorce/Separate Support Summons

_____, Plaintiff
 v.
 _____, Defendant

To the above named Defendant:

You are hereby summoned and required to serve upon Douglas W. McCormac
 plaintiff's attorney whose address is South Coastal Counties Legal Services, Inc., 21

South Sixth St., New Bedford, MA 02740 a copy of your answer to the complaint for Divorce Separate Support
 (type of action)

which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, the Court will proceed to the hearing and adjudication of this action. You are also required to file your answer to the complaint in the office of the Register of this Court at Taunton either before service upon plaintiff's attorney or within a reasonable time thereafter.

Witness Elizabeth O'Neill LaStaiti Esquire, First Justice of said Court

at Taunton this 12th day of March 2007



 Register of Probate

AN AUTOMATIC RESTRAINING ORDER HAS BEEN ENTERED AGAINST THE ABOVE NAMED PARTIES WHO ARE PROHIBITED FROM:

- (1) Selling, transferring, encumbering, concealing, assigning, removing or in any way disposing of any property, real or personal, belonging to or acquired by, either party, except: (a) as required for reasonable expenses of living; (b) in the ordinary and usual course of business; (c) in the ordinary and usual course of investing; (d) for payment of reasonable attorney's fees and costs in connection with the action; (e) by written agreement of both parties; or (f) by Order of the Court.
- (2) Incurring any further debts that would burden the credit of the other party, including but not limited to further borrowing against any credit line secured by the marital residence or unreasonably using credit cards or cash advances against credit or bank cards;
- (3) Changing the beneficiary of any life insurance policy, pension or retirement plan, or pension or retirement investment account, except with the written consent of the other party or by Order of the Court.
- (4) Causing the other party or the minor child(ren) to be removed from coverage under an existing insurance policy, or permitting such coverage to lapse, including medical, dental, life, automobile, and disability insurance. The parties shall maintain all insurance coverage in full force and effect.

This order is in effect until the earliest of the following: (1) the order is modified or dissolved by the court; (2) the order is modified by a written agreement of the parties with court approval; (3) the entry of a judgment of divorce or separate support; (4) the action is dismissed; or (5) by further order of the court. FAILURE TO COMPLY WITH THIS ORDER MAY BE DEEMED A CONTEMPT OF COURT.

CJ-D 110A (01/00)

□ **CHAPTER 4: SEPARATE SUPPORT**