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**MEMORANDUM**

**TO:** District Court Judges, Clerk-Magistrates and Chief Probation Officers  
**FROM:** Hon. Lynda M. Connolly, Chief Justice  
**DATE:** April 13, 2010  
**SUBJECT:** **Harassment Prevention Orders (G.L. c. 258E)**

On Monday, May 10, 2010, “An Act Relative to Harassment Prevention Orders” (St. 2010, c. 23) will become effective. It enacts new G.L. c. 258E, which authorizes the issuance of “harassment prevention orders.” The procedures in Chapter 258E for harassment prevention orders are largely parallel to those for abuse prevention orders in G.L. c. 209A, although the two statutes differ in their eligibility provisions and available relief.

This memorandum summarizes the *differences* between the two statutes. The attachments provide more detailed information. They include: (1) a one-page chart summarizing the differences in eligibility criteria and available relief under the two statutes, (2) a simple, one-page poster of the eligibility criteria under both statutes which is suitable for posting on a court bulletin board or giving to pro se plaintiffs, (3) a side-by-side comparison of the text of Chapter 258E with that of Chapter 209A, and (4) the full text of the new statute.

This memorandum also discusses filing and docketing procedures for the District Court, and introduces final or near-final versions of the forms that will be used to implement the new statute. Sample copies of the forms are appended.

**I. Differences from c. 209A.** As indicated, most of the mechanics of G.L. c. 258E harassment prevention orders are similar to those for G.L. c. 209A abuse prevention orders. The substantive differences between Chapter 258E and Chapter 209A are summarized below.

**1. Jurisdiction.** Harassment prevention orders under Chapter 258E are available from the District, Boston Municipal, and Superior Court Departments. Unlike Chapter 209A orders, the Probate and Family Court does *not* have jurisdiction to issue harassment prevention orders.

**2. Juvenile Court jurisdiction.** In addition to the new statute’s grant of jurisdiction to the District, Boston Municipal, and Superior Court Departments, it also provides that Chapter 258E proceedings “shall be filed, heard and determined in . . . the respective divisions of the juvenile . . . court department[ ] . . . . The juvenile court shall have jurisdiction over all proceedings under this chapter in which both the plaintiff and the defendant are under the age of 17.” This wording suffers from some ambiguity. The Chief Justice for Administration and Management and the Chief Justice of the Juvenile Court Department are seeking a statutory amendment to restrict the Juvenile Court’s jurisdiction to cases

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where the *defendant* is under 17 and to make such jurisdiction exclusive. We will keep you informed of developments in this area.

3. **Venue.** Venue for Chapter 258E proceedings lies only in the court division with jurisdiction over the plaintiff's current residence. Unlike Chapter 209A, venue is *not* also available where the plaintiff has left a former residence to avoid harassment.

4. **Timeliness.** Like Chapter 209A, the new statute does not require a plaintiff to seek relief "within a particular time period after the last alleged incident of harassment."

5. **Disclosure of other proceedings.** Chapter 209A requires a plaintiff to disclose "any prior or pending actions involving the parties for divorce, annulment, paternity, custody or support, guardianship, separate support or legal separation, or abuse prevention." Chapter 258E has an even broader requirement that a plaintiff must disclose "any prior or pending actions involving the parties."

6. **Eligibility for relief and ex parte relief.** Unlike Chapter 209A, the new law does not require that the plaintiff have a family, household or substantial dating relationship with the defendant. Anyone "suffering from" any of three forms of harassment (see below) may obtain a restraining order under Chapter 258E.

If the plaintiff is "suffering from" any of those three forms of harassment, Chapter 258E does not expressly require an additional showing of imminent future harassment to qualify for a restraining order (unlike Chapter 209A, which expressly requires actual or attempted physical harm or "fear of imminent serious physical harm.")

However, there is an imminence requirement for a plaintiff to obtain ex parte relief, including after-hours orders by telephone through the judicial response system. Chapter 258E authorizes ex parte relief only if there is "a substantial likelihood of immediate danger of harassment." (This is parallel to Chapter 209A's requirement of "a substantial likelihood of immediate danger of abuse" to obtain ex parte relief.)

7. **Definition of harassment.** Chapter 258E has three alternate definitions of "harassment" warranting relief:

- "3 or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse or damage to property and that does in fact cause fear, intimidation, abuse or damage to property"
- *or* a single act that "by force, threat or duress causes another to involuntarily engage in sexual relations"
- *or* a single act that constitutes one of 12 enumerated crimes involving sexual assault, stalking or harassment. These include G.L. c. 265, §§ 13B (Indecent A & B on a child), 13F (Indecent A&B on a mentally retarded person), 13H (Indecent A&B), 22 (Rape), 22A (Forcible rape of a child), 23 (Statutory rape), 24 (Assault with intent to rape), 24B (Assault

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with intent to rape a child), 26C (Enticement of a child), 43 (Criminal stalking) or 43A (Criminal harassment), or G.L. c. 272, § 3 (Drugging for sexual intercourse).

Please note that the first of the above alternatives requires *three* such acts to warrant relief, while the other two branches require only *one* such act. Note also that the first branch has 5 elements:

- There must have been *three or more acts* of harassment.
- Each act must have been *aimed at a specific person*.
- Each act must have been both *willful and malicious*.
- Each act must have been done *with intent to cause fear, intimidation, abuse or property damage*.
- Each act must in fact have *caused fear, intimidation, abuse or property damage*.

Chapter 258E provides definitions for some but not all of the above terms:

**“Willful.”** The statute does not define “willful.” In other contexts, two different definitions of “willful” are in use. The older definition, which is still used for willful and malicious property damage (G.L. c. 266, § 127), requires that the actor intend both the act and the resulting harm. See *Commonwealth v. Armand*, 411 Mass. 167, 170-171 (1991); *Commonwealth v. Smith*, 17 Mass. App. Ct. 918, 920 (1983). The more recent definition, which is applicable to willful and malicious criminal harassment (G.L. c. 265, § 43A), requires only that the actor intend the act and does not require evil intent or ill will. See *Commonwealth v. O’Neil*, 67 Mass. App. Ct. 284, 293 (2006).

**“Malicious.”** The statute defines “malicious” as “characterized by cruelty, hostility or revenge.” Note that this requires subjective ill will. This is the same standard of malice as in willful and malicious property damage. It is higher than the standard in criminal harassment or in arson (G.L. c. 266, § 1), both of which require only the willful doing of an unlawful act without justification or mitigation. *O’Neil, supra*.

**“Abuse.”** For purposes of Chapter 258E, “abuse” is defined as “attempting to cause or causing physical harm to another or placing another in fear of imminent serious physical harm.” This incorporates the first two branches of the definition of “abuse” in Chapter 209A. (The final branch, “causing another to engage in sexual relations by force, threat or duress,” is one of the definitions of “harassment” in c. 258E.)

**“Intimidation.”** The statute does not define “fear,” “intimidation” or “property damage.” Nor does it define *what* the plaintiff must fear, or what the *goal* of the intimidation must be.

The word “intimidation” has been construed in the Massachusetts Civil Rights Act (G.L. c. 12, § 11H) to mean “putting in fear for the purpose of compelling or deterring conduct.” *Planned*

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*Parenthood League, Inc. v. Blake*, 417 Mass. 467, 474, cert. denied, 513 U.S. 868 (1994). In the context of the witness intimidation statute (G.L. c. 268, § 13B), *Commonwealth v. Potter*, 39 Mass. App. Ct. 924, 925 (1995), indicated that “[a]s commonly understood and as defined in [the dictionary], the essence of intimidation is fear.” However, *Commonwealth v. Gordon*, 44 Mass. App. Ct. 233, 235 (1998), held that this does not require an overt threat or that the victim be put in fear of a specific harm.

8. **Available relief.** General Laws c. 258E authorizes the court to issue four orders to the defendant:

- to refrain from “abusing or harassing” the plaintiff,
- not to contact the plaintiff,
- to remain away from the plaintiff’s household or workplace, and
- to pay restitution for directly-resulting losses.

Chapter 258E does not authorize any other forms of relief and, unlike Chapter 209A, does not provide that relief “is not limited to” the enumerated orders. Specifically, Chapter 258E does not authorize vacate orders, firearms-surrender orders or temporary child custody, visitation or support orders. Nor does it expressly authorize orders to stay away from a plaintiff’s “multiple family dwelling,” although perhaps that is included in the authority to order the defendant to stay away from the plaintiff’s “household.” (Like Chapter 209A, it authorizes the court in appropriate cases “to order that information in the case record be impounded in accordance with court rule.”)

9. **Compensable losses.** Chapter 258E has minor differences from Chapter 209A in the lists of compensable losses for which monetary compensation may be awarded in a restraining order and restitution may be awarded after a violation. Since both statutes provide that compensable losses “shall include, but shall not be limited to” the enumerated lists, it appears that these small variations in wording have no practical effect.

These minor differences include the following: Chapter 258E omits the wording of Chapter 209A that orders may include compensation for “loss of support,” “costs for restoring utilities,” replacement of “personal property removed or destroyed,” and “moving expenses.” Chapter 258E adds provisions that such compensation may include “out-of-pocket losses for . . . property damaged” and for the “cost for obtaining an unlisted phone number.” In the list of losses for which restitution may be ordered after a violation, Chapter 258E omits reference to “cost for shelter or emergency housing,” “loss of support” and “moving expenses,” but adds “cost of replacement locks.”

10. **Modification of orders.** Chapter 258E has a specific provision not found in Chapter 209A that any modification of an order requires that “the non-moving party shall receive sufficient notice and opportunity to be heard on said modification.”

Note that this does not expressly require *prior* notice. For Chapter 209A orders, the Trial Court

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Guidelines for Judicial Practice: *Abuse Prevention Proceedings*, commentary to Standard 6:04 (2000), contemplate the possibility of ex parte allowance of a motion for modification if there is “a substantial likelihood of immediate danger of abuse” (G.L. c. 209A, § 4).

11. **Referral to mediation.** Chapter 258E does not include the prohibition against compelling the parties to mediate any aspect of their case that is found in Chapter 209A. However, since the primary purpose of Chapter 258E is to provide protection, not to encourage reconciliation, a referral even to voluntary mediation should be undertaken with caution. As has been observed in the Chapter 209A context, “Such procedures can expose a victim to further abuse and can provide an abuser with a forum for continued contact and domination. At the very least, such matters should be left to the victim to decide.” Trial Court Guidelines for Judicial Practice: *Abuse Prevention Proceedings*, commentary to Standard 6:01 (2000).

12. **Mutual restraining orders.** Chapter 258E, unlike Chapter 209A, does not impose special procedural requirements for the issuance of mutual restraining orders. As a matter of law, mutual restraining orders may be granted “only if the predicate conditions are shown and not as a prophylactic agent to prevent putative violations.” *Uttaro v. Uttaro*, 54 Mass. App. Ct. 871, 875 (2002) (referring to 209A orders).

Any mutual restraining orders should include “specific and detailed guidance [in order to] give law enforcement personnel the ability to identify the true violator” if an incident occurs. *Sommi v. Ayer*, 51 Mass. App. Ct. 207, 210 (2001) (referring to 209A orders). As recommended for 209A orders, “[e]ach mutual order should refer to the other order by court department, division and case number.” Trial Court Guidelines for Judicial Practice: *Abuse Prevention Proceedings*, Standard 6:07 (2000).

13. **Treatment program referrals.** Chapter 209A authorizes a judge to recommend that a defendant against whom an abuse prevention order has issued should attend a certified batterer’s intervention program. After any violation of a 209A order, the sentencing judge must generally require completion of a batterer’s intervention program as a condition of probation, and may additionally require appropriate substance abuse treatment.

Chapter 258E has a more general provision that simply authorizes a judge to require a defendant who has violated a harassment prevention order “to complete an appropriate treatment program based on the offense.” Like Chapter 209A, Chapter 258E requires a \$350 assessment if the judge mandates attendance at such a program, but both statutes allow for reduction or waiver for indigency or severe financial hardship.

14. **GPS monitoring.** Unlike Chapter 209A, the new statute does not make express reference to GPS monitoring of exclusion zones as a discretionary condition of probation when a defendant has violated an order.

15. **Statewide registry of abuse or harassment restraining orders.** As authorized by Chapter 258E, the Office of the Commissioner of Probation and the Trial Court’s Information Services Department are working to include Chapter 258E harassment prevention orders in the existing statewide

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registry of abuse prevention orders. It appears that the necessary software changes will be completed by the May 10, 2010, effective date of Chapter 258E or shortly thereafter. Clerks' offices should continue their current practice of providing their local probation office with copies of all restraining orders, whether issued under Chapter 209A or Chapter 258E.

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**II. Filing and docketing procedures.** In the District Court, Chapter 258E cases should be docketed using the same "RO" (restraining order) case type, numbering sequence, and file folders that are currently used for Chapter 209A cases.

Two new case subtypes have been added to the Civil BasCOT computer system for entering harassment prevention orders or for registering out-of-state harassment prevention orders:

HPO Harassment Prevention Order (c258E)  
HPR Interstate Harassment Prevention Order Registration (c258E §7).

The available BasCOT docket entries for the "RO" case type have been modified so that they may be used interchangeably for Chapter 209A cases or Chapter 258E cases. An updated list of those docket entries is available in the "BasCOT Civil Case Management Information" area of the District Court intranet site.

Violations of Chapter 258E orders not to harass or contact the plaintiff are criminal offenses. The following offense code has been added to MassCourts to charge such violations:

258E/9 **HARASSMENT PREVENTION ORDER, VIOLATE** c258E §9 (Effective 5/10/10)  
on [DATE OF OFFENSE:] did fail to comply with a court order to refrain from harassing the plaintiff or have no contact with the plaintiff, issued under the provisions of G.L. c.258E, §§ 3, 5 or 6, or a protection order issued by another jurisdiction, as defined in G.L. c.258E, §1, in violation of G.L. c.258E, §9. (PENALTY: house of correction not more than 2½ years; or not more than \$5000 fine; or both; plus an additional fine of \$25; and the court "may order the defendant to pay the plaintiff for all damages including, but not limited to, loss of earnings, out-of-pocket losses for injuries sustained or property damaged, cost of replacement locks, medical expenses, cost for obtaining an unlisted telephone number and reasonable attorney's fees"; and may order as a condition of probation completion of an appropriate treatment program and a \$350 assessment, in addition to the cost of the treatment program.)

**III. Forms.** Appended to this memorandum are samples of nine forms that will be used to implement G.L. c. 258E. The first four of these forms are specific to Chapter 258E cases. They were designed to be as similar as possible to Chapter 209A forms in layout, and also to anticipate several proposed improvements to the current Chapter 209A forms. They include:

- a one-page "COMPLAINT FOR PROTECTION FROM HARASSMENT" (HA-1) form (along with the Affidavit to appear on the back of the court copy, and the Instructions to the Plaintiff to appear on the back of the last copy). The printed form will include four copies (court, plaintiff, defendant, probation).

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The set of check boxes in Section C of the complaint form will inform the court if the plaintiff or the defendant are 16 or younger (which determines whether the Juvenile Court has jurisdiction), or if either of them is 17 (and therefore, as a minor, will litigate through a next friend, and the case records will not be publicly available), or if they are both adults 18 or older.

- a one-page “**HARASSMENT PREVENTION ORDER**” (HA-2) form (along with the instructions to appear on the back of the return-of-service copy, and the instructions to appear on the back of the other copies). The printed form will include six copies (court, plaintiff, defendant, police, return of service, probation).
- a one-page “**MODIFICATION, EXTENSION OR TERMINATION OF HARASSMENT PREVENTION ORDER**” (HA-2A) form (which will have the same instructions on the back as the HA-2 order form). This is a supplemental form which should be used only when a prior order is being modified, extended or terminated, along with an attached photocopy of the original order. Like the HA-2 order form, the printed form will include six copies (court, plaintiff, defendant, police, return of service, probation).
- The “**INSTRUCTIONS FOR POLICE DEPARTMENTS AFTER COURT HOURS**” (HA-3) are the instructions which will be printed on the envelope containing the packet of four forms (the complaint, order, defendant information and confidential plaintiff information forms) for after-hours police use.

Also appended to this memorandum are samples of four additional forms. These are existing forms for Chapter 209A cases which have been modified so that these same forms can be used *both* in Chapter 209A cases and in Chapter 258E cases, in the same manner they are now used in Chapter 209A cases. These additional forms include:

- the “**DEFENDANT INFORMATION FORM**” (FA/HA-5),
- the “**PLAINTIFF CONFIDENTIAL INFORMATION FORM**” (FA/HA-6),
- the “**REQUEST FOR ACCESS TO PLAINTIFF CONFIDENTIAL INFORMATION**” (FA/HA-7) form,
- and the “**AFFIDAVIT FOR FILING OUT-OF-STATE PROTECTIVE ORDER**” (FA/HA-9) form.

The final form appended to this memorandum is an optional “**MOTION FOR IMPOUNDMENT**” (FA/HA-8) form, which also may be used both in Chapter 209A cases and in Chapter 258E cases. This form replaces the former impoundment request (FA-4) form that was discontinued in 2000 when the address confidentiality provisions of Chapter 209A were amended. See Trans. 760 (November 21, 2000).

Because both statutes provide that the plaintiff’s residential address and telephone number and workplace name, address and telephone number are automatically to be kept confidential, a motion for

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impoundment is *not* needed to make them unavailable to the public (and to the defendant, unless one or both of those addresses appear in the order). Nor is an impoundment motion needed to impound the entire case from public inspection when either party is under 18, since that too is automatic.

However, in both Chapter 209A and Chapter 258E cases, an impoundment motion and order *is necessary* when the plaintiff requests:

- that his or her addresses be withheld not only from the public and the defendant but also from those (including police, prosecutors and advocates) who would otherwise have access to such information by statute, *or*
- that other information in the case record (such as the plaintiff's affidavit) be impounded.

The new "MOTION FOR IMPOUNDMENT" form may be used to facilitate the presentation of such motions to the court, particularly by pro se plaintiffs. The instructions on the form explain that (as required by c. 209A, § 3[g] and c. 258E, § 3[b]) such impoundment requests must comply with Trial Court Rule VIII, the Uniform Rules on Impoundment Procedure, including their requirement that an impoundment order may be issued ex parte only on a showing that immediate and irreparable injury may otherwise result.

Five of the forms listed above are currently being printed and each district court will be shipped an initial supply of them before the new statute goes into effect. These include the "COMPLAINT FOR PROTECTION FROM HARASSMENT" (HA-1) form, the "HARASSMENT PREVENTION ORDER" (HA-2) form, the "MODIFICATION, EXTENSION OR TERMINATION OF HARASSMENT PREVENTION ORDER" (HA-2A) form, the "DEFENDANT INFORMATION FORM" (FA/HA-5), and the "PLAINTIFF CONFIDENTIAL INFORMATION FORM" (FA/HA-6). In the future, additional supplies of these five forms may be ordered from the printer through the Central Forms Procurement System in the usual manner.

An initial supply of envelopes imprinted with the "INSTRUCTIONS FOR POLICE DEPARTMENTS AFTER COURT HOURS" (HA-3) and containing four forms (complaint, order, defendant information and confidential plaintiff information forms) for after-hours police use will be shipped to each police department. Police departments will be advised that they may obtain additional supplies of the HA-3 forms packet from the Administrative Office of the Trial Court at (617) 878-0322.

The last three of the forms listed above will be used only in low volume and therefore will not be printed centrally. These include the "REQUEST FOR ACCESS TO PLAINTIFF CONFIDENTIAL INFORMATION" (FA/HA-7) form, the "AFFIDAVIT FOR FILING OUT-OF-STATE PROTECTIVE ORDER" (FA/HA-9) form, and the "MOTION FOR IMPOUNDMENT" (FA/HA-8) form. These have been posted in the Forms area of our intranet site at <http://trialcourtweb/courtsandjudges/courts/districtcourt/formsfordownload.html> and our internet site at [www.mass.gov/courts/districtcourt](http://www.mass.gov/courts/districtcourt). They should be photocopied locally as necessary.

## SUBSTANTIVE DIFFERENCES BETWEEN G.L. c. 209A and G.L. c. 258E

	<i>Abuse Prevention Orders (G.L. c. 209A)</i>	<i>Harassment Prevention Orders (G.L. c. 258E)</i>
<i>Jurisdiction</i>	<ul style="list-style-type: none"> <li>• District Court &amp; BMC</li> <li>• Probate &amp; Family Court</li> <li>• Superior Court (<i>except for dating relationships</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• District Court &amp; BMC</li> <li>• Juvenile Court (<i>if both parties under 17</i>)</li> <li>• Superior Court</li> </ul>
<i>Venue</i>	<ul style="list-style-type: none"> <li>• Plaintiff's residence</li> <li>• Plaintiff's former residence left to avoid abuse</li> </ul>	<ul style="list-style-type: none"> <li>• Plaintiff's residence</li> </ul>
<i>Eligibility for relief</i>	<p>“Suffering abuse”</p> <p>“<b>Abuse</b>” is any of the following acts between family or household members:</p> <ul style="list-style-type: none"> <li>• attempting to cause or causing physical harm</li> <li>• <i>or</i> placing another in fear of imminent serious physical harm</li> <li>• <i>or</i> causing another to engage involuntarily in sexual relations by force, threat or duress.</li> </ul> <p>“<b>Family or Household Members</b>”</p> <ul style="list-style-type: none"> <li>• are or were married to one another</li> <li>• <i>or</i> are or were residing together in the same household</li> <li>• <i>or</i> are or were related by blood or marriage</li> <li>• <i>or</i> have a child in common regardless of whether they have ever married or lived together</li> <li>• <i>or</i> are or have been in a substantive dating or engagement relationship.</li> </ul>	<p>“Suffering harassment”</p> <p>“<b>Harassment</b>” is defined as:</p> <ul style="list-style-type: none"> <li>• 3 or more acts– <ul style="list-style-type: none"> <li>□ Each aimed at a specific person</li> <li>□ Each was willful and malicious</li> <li>□ Each was done with intent to cause fear, intimidation, abuse or property damage</li> <li>□ Each did in fact cause fear, intimidation, abuse or property damage</li> </ul> </li> <li>• <i>or</i> one act that “by force, threat or duress causes another to involuntarily engage in sexual relations”</li> <li>• <i>or</i> one act that constitutes one of the following: <ul style="list-style-type: none"> <li>□ Indecent A&amp;B on a child (G.L. c.265, §13B)</li> <li>□ Indecent A&amp;B on a mentally retarded person (§13F)</li> <li>□ Indecent A&amp;B (§13H)</li> <li>□ Rape (§22) or Statutory rape (§23)</li> <li>□ Forcible rape of a child (§22A)</li> <li>□ Assault with intent to rape (§24)</li> <li>□ Assault with intent to rape a child (§24B)</li> <li>□ Enticement of a child (§26C)</li> <li>□ Criminal stalking (§43)</li> <li>□ Criminal harassment (§43A)</li> <li>□ Drugging for sexual intercourse (c. 272, §3)</li> </ul> </li> </ul> <p>“<b>Abuse</b>” is:</p> <ul style="list-style-type: none"> <li>• attempting to cause or causing physical harm to another</li> <li>• <i>or</i> placing another in fear of imminent serious physical harm.</li> </ul> <p>“<b>Malicious</b>” is “characterized by cruelty, hostility or revenge.”</p>
<i>Eligibility for ex parte relief</i>	Substantial likelihood of immediate danger of abuse	Substantial likelihood of immediate danger of harassment
<i>Available relief</i>	<p>Relief may include, but is not limited to:</p> <ul style="list-style-type: none"> <li>• Do not abuse the plaintiff</li> <li>• Do not contact the plaintiff</li> <li>• Vacate and remain away from the plaintiff's household, multiple family dwelling, and workplace</li> <li>• Pay restitution for directly-resulting losses</li> <li>• Impounding information pursuant to court rules</li> <li>• Pay temporary support for the plaintiff and/or child</li> <li>• Temporary custody of a minor child</li> <li>• Surrender firearms, gun licenses and FID cards</li> </ul>	<p>Relief is limited to:</p> <ul style="list-style-type: none"> <li>• Do not abuse or harass the plaintiff</li> <li>• Do not contact the plaintiff</li> <li>• Remain away from the plaintiff's household or workplace</li> <li>• Pay restitution for directly-resulting losses</li> <li>• Impounding information pursuant to court rules</li> </ul>

## AM I ELIGIBLE FOR A RESTRAINING ORDER?

### ABUSE PREVENTION ORDERS

You may request an Abuse Prevention Order (a “209A Order”) from a judge of this court if:

1. You and your abuser are or were:
  - married,
  - or residing together in the same household,
  - or in a substantive dating or engagement relationship,
  - or related by blood or marriage,
  - or you have a child in common;
2. *and* you are suffering from abuse because your abuser has:
  - harmed or attempted to harm you physically,
  - or put you in fear of imminent serious physical harm,
  - or caused you to engage in sexual relations involuntarily by using force, threat or duress;
3. *and* you:
  - currently live within the geographical area of this court,
  - or used to live within the geographical area of this court but you left to avoid abuse.

A judge may issue an Abuse Prevention Order *without prior notice* to your abuser if there is a substantial likelihood of immediate danger of abuse.

### HARASSMENT PREVENTION ORDERS

You may request a Harassment Prevention Order (a “258E Order”) from a judge of this court if:

1. You are suffering from harassment because:
  - someone has committed 3 or more acts:
    - that were willful and malicious,  
*“Malicious” means characterized by cruelty, hostility or revenge.*
    - and were aimed at you,
    - and were intended to cause you fear, intimidation, abuse or damage to property,  
*“Abuse” means causing or attempting to cause physical harm, or causing fear of imminent serious physical harm.*
    - and did in fact cause you fear, intimidation, abuse or damage to property;
  - *or* someone has caused you at least once to engage in sexual relations involuntarily by using force, threat or duress;
  - *or* someone has committed against you at least once an act that violates any of the following statutes: General Laws chapter 265, §§ 13B, 13F or 13H (indecent assault and battery), 22 or 22A (rape), 23 (statutory rape), 24 or 24B (assault with intent to rape), 26C (enticing a child), 43 (criminal stalking), 43A (criminal harassment), or chapter 272, § 3 (drugging for sexual intercourse);
2. *and* you currently live within the geographical area of this court.

A judge may issue a Harassment Prevention Order *without prior notice* to your harasser if there is a substantial likelihood of immediate danger of harassment.

## COMPARISON OF THE PROVISIONS OF G.L. c. 209A and G.L. c. 258E

### *Abuse Prevention Orders (G.L. c. 209A)*

### *Harassment Prevention Orders (G.L. c. 258E)*

#### *Jurisdiction*

“Proceedings under this chapter shall be filed, heard and determined in the superior court department or the Boston municipal court department or respective divisions of the probate and family or district court departments . . . .” G.L. c. 209A, § 2.

“Proceedings under this chapter shall be filed, heard and determined in the superior court department or the Boston municipal court department or the respective divisions of the juvenile or district court departments . . . . The juvenile court shall have jurisdiction over all proceedings under this chapter in which both the plaintiff and the defendant are under the age of 17.” G.L. c. 258E, § 2.

“‘Court’, the superior, probate and family, district or Boston municipal court departments of the trial court, except when the petitioner is in a dating relationship when ‘Court’ shall mean district, probate, or Boston municipal courts.” G.L. c. 209A, § 1.

“‘Court’, the district or Boston municipal court, the superior court or the juvenile court departments of the trial court.” G.L. c. 258E, § 1.

#### *Venue*

“Proceedings under this chapter shall be filed, heard and determined in the . . . divisions . . . having venue over the plaintiff’s residence. If the plaintiff has left a residence or household to avoid abuse, such plaintiff shall have the option of commencing an action in the court having venue over such prior residence or household, or in the court having venue over the present residence or household.” G.L. c. 209A, § 2.

“Proceedings under this chapter shall be filed, heard and determined in the . . . divisions . . . having venue over the plaintiff’s residence.” G.L. c. 258E, § 2.

#### *Timeliness*

“A court shall not deny any complaint filed under this chapter solely because it was not filed within a particular time period after the last alleged incident of abuse.” G.L. c. 209A, § 3, ¶ 7.

“The court shall not deny any complaint filed under this chapter solely because it was not filed within a particular time period after the last alleged incident of harassment.” G.L. c. 258E, § 3(f).

#### *Disclosure of other proceedings*

“A party filing a complaint under this chapter shall be required to disclose any prior or pending actions involving the parties for divorce, annulment, paternity, custody or support, guardianship, separate support or legal separation, or abuse prevention.” G.L. c. 209A, § 3, ¶ 9.

“A party filing a complaint under this chapter shall be required to disclose any prior or pending actions involving the parties.” G.L. c. 258E, § 3(g).

#### *Eligibility for relief*

“A person suffering from abuse . . . may file a complaint in the court requesting protection from such abuse . . . .” G.L. c. 209A, § 3, ¶ 1.

“A person suffering from harassment may file a complaint in the appropriate court requesting protection from such harassment.” G.L. c. 258E, § 3(a).

#### *Definitions*

“As used in this chapter the following words shall have the following meanings:-

“As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“‘**Abuse**’, the occurrence of one or more of the following acts between family or household members:

“(a) attempting to cause or causing physical harm;  
“(b) placing another in fear of imminent serious physical harm;

“(c) causing another to engage involuntarily in sexual relations by force, threat or duress.

. . .

“‘**Family or household members**’, persons who:

“(a) are or were married to one another;  
“(b) are or were residing together in the same household;

“(c) are or were related by blood or marriage;

“‘**Abuse**’, attempting to cause or causing physical harm to another or placing another in fear of imminent serious physical harm.

“‘**Harassment**’, (I) 3 or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse or damage to property and that does in fact cause fear, intimidation, abuse or damage to property; or (ii) an act that: (A) by force, threat or duress causes another to involuntarily engage in sexual relations; or (B) constitutes a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43 or 43A of chapter 265 or section 3 of chapter 272.

*Abuse Prevention Orders (G.L. c. 209A)*

*Harassment Prevention Orders (G.L. c. 258E)*

*Definitions, cont'd*

“(d) having [*sic*] a child in common regardless of whether they have ever married or lived together; or

“(e) are or have been in a substantive dating or engagement relationship, which shall be adjudged by district, probate or Boston municipal courts consideration of the following factors: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

“**Vacate order**’, court order to leave and remain away from a premises and surrendering forthwith any keys to said premises to the plaintiff. The defendant shall not damage any of the plaintiff’s belongings or those of any other occupant and shall not shut off or cause to be shut off any utilities or mail delivery to the plaintiff. In the case where the premises designated in the vacate order is a residence, so long as the plaintiff is living at said residence, the defendant shall not interfere in any way with the plaintiff’s right to possess such residence, except by order or judgment of a court of competent jurisdiction pursuant to appropriate civil eviction proceedings, a petition to partition real estate, or a proceeding to divide marital property. A vacate order may include in its scope a household, a multiple family dwelling and the plaintiff’s workplace. When issuing an order to vacate the plaintiff’s workplace, the presiding justice must consider whether the plaintiff and defendant work in the same location or for the same employer.” G.L. c. 209A, § 1.

...

“**Malicious**’, characterized by cruelty, hostility or revenge.” G.L. c. 258E, § 1.

*Available relief*

“A person suffering from abuse . . . may file a complaint in the court requesting protection from such abuse, including, but not limited to, the following orders:

“(a) ordering the defendant to **refrain from abusing** the plaintiff, whether the defendant is an adult or minor;

“(b) ordering the defendant to **refrain from contacting** the plaintiff, unless authorized by the court, whether the defendant is an adult or minor;

“(c) ordering the defendant to **vacate** forthwith and **remain away from the household, multiple family dwelling, and workplace** . . . .

“(d) awarding the plaintiff **temporary custody** of a minor child . . . .

“(e) ordering the defendant to pay **temporary support** for the plaintiff or any child in the plaintiff’s custody or both, when the defendant has a legal obligation to support such a person . . . .

“(f) ordering the defendant to pay the person abused **monetary compensation** for the losses suffered as a direct result of such abuse. Compensatory losses shall include, but not be limited to, loss of earnings or support, costs for restoring utilities, out-of-pocket losses for injuries sustained, replacement costs for locks or personal property removed or destroyed, medical and moving expenses and reasonable attorney’s fees;

“(a) A person suffering from harassment . . . may petition the court under this chapter for an order that the defendant:

“(I) **refrain from abusing or harassing** the plaintiff, whether the defendant is an adult or minor;

“(ii) **refrain from contacting** the plaintiff, unless authorized by the court, whether the defendant is an adult or minor;

“(iii) **remain away from the plaintiff’s household or workplace**, whether the defendant is an adult or minor; and

“(iv) **pay the plaintiff monetary compensation** for the losses suffered as a direct result of the harassment; provided, however, that compensatory damages shall include, but shall not be limited to, loss of earnings, out-of-pocket losses for injuries sustained or property damaged, cost of replacement of locks, medical expenses, cost for obtaining an unlisted phone number and reasonable attorney’s fees.

*Abuse Prevention Orders (G.L. c. 209A)*

*Harassment Prevention Orders (G.L. c. 258E)*

*Available relief, cont'd*

“(g) ordering **information in the case record to be impounded** in accordance with court rule;

“(b) The court may order that **information in the case record be impounded** in accordance with court rule.” G.L. c. 258E, § 3.

“(h) ordering the defendant to refrain from **abusing or contacting the plaintiff’s child**, or child in plaintiff’s care or custody, unless authorized by the court;

“(I) the judge may **recommend** to the defendant that the defendant attend a **batterer’s intervention program** that is certified by the department of public health.

...

“If there is a prior or pending custody support order from the probate and family court department of the trial court, an order issued in the superior, district or Boston municipal court departments of the trial court pursuant to this chapter may include any relief available pursuant to this chapter except orders for custody or support.

“If the parties to a proceeding under this chapter are parties in a subsequent proceeding in the probate and family court department for divorce, annulment, paternity, custody or support, guardianship or separate support, any custody or support order or judgment issued in the subsequent proceeding shall supersede any prior custody or support order under this chapter.” G.L. c. 209A, § 3.

*Ex parte orders*

“If the plaintiff demonstrates a substantial likelihood of immediate danger of abuse, the court may enter such temporary relief orders without notice as it deems necessary to protect the plaintiff from abuse . . . .” G.L. c. 209A, § 4, ¶ 2.

“If the plaintiff demonstrates a substantial likelihood of immediate danger of harassment, the court may enter such temporary relief orders without notice as it deems necessary to protect the plaintiff from harassment . . . .” G.L. c. 258E, § 5, ¶ 2.

*After-hours orders*

“When the court is closed for business or the plaintiff is unable to appear in court because of severe hardship due to the plaintiff’s physical condition, any justice of the superior, probate and family, district or Boston municipal court departments may grant relief to the plaintiff as provided under section four if the plaintiff demonstrates a substantial likelihood of immediate danger of abuse.” G.L. c. 209A, § 5, ¶ 1.

“When the court is closed for business or the plaintiff is unable to appear in court because of severe hardship due to the plaintiff’s physical condition, the court may grant relief to the plaintiff as provided under section 5 if the plaintiff demonstrates a substantial likelihood of immediate danger of harassment.” G.L. c. 258E, § 6, ¶ 1.

*Modification of orders*

“The court may modify its order at any subsequent time upon motion by either party.” G.L. c. 209A, § 3, ¶ 4.

“The court may modify its order at any subsequent time upon motion by either party; provided, however, that the non-moving party shall receive sufficient notice and opportunity to be heard on said modification . . . .” G.L. c. 258E, § 3(e).

*Temporary custody or support orders*

[See G.L. c. 209A, § 3(d) & (e)]

[No equivalent provision]

*Firearms surrender orders*

[See G.L. c. 209A, §§ 3B & 3C]

[No equivalent provision]

*Prohibition on referral to mediation*

[See G.L. c. 209A, § 3, ¶ 6]

[No equivalent provision]

*Limitations on mutual restraining orders*

[See G.L. c. 209A, § 3, ¶ 8]

[No equivalent provision]

*Abuse Prevention Orders (G.L. c. 209A)*

*Registration of out-of-state orders*

“Any protection order issued by another jurisdiction, as defined in section one, shall be given full faith and credit throughout the commonwealth and enforced as if it were issued in the commonwealth for as long as the order is in effect in the issuing jurisdiction.

“A person entitled to protection under a protection order issued by another jurisdiction may file such order in the superior court department or the Boston municipal court department or any division of the probate and family or district court departments by filing with the court a certified copy of such order which shall be entered into the statewide domestic violence record keeping system established pursuant to the provisions of section seven of chapter one hundred and eighty-eight of the acts of nineteen hundred and ninety-two and maintained by the office of the commissioner of probation. Such person shall swear under oath in an affidavit, to the best of such person’s knowledge, that such order is presently in effect as written. Upon request by a law enforcement agency, the register or clerk of such court shall provide a certified copy of the protection order issued by the other jurisdiction.

“A law enforcement officer may presume the validity of, and enforce in accordance with section six, a copy of a protection order issued by another jurisdiction which has been provided to the law enforcement officer by any source; provided, however, that the officer is also provided with a statement by the person protected by the order that such order remains in effect. Law enforcement officers may rely on such statement by the person protected by such order.” G.L. c. 209A, § 5A.

*Violations*

*Criminal penalties*

“Whenever the court orders under [G.L. c. 208, §§ 18, 34B & 34C, G.L. c. 209, § 32, G.L. c. 209A, §§ 3, 4 & 5, or G.L. c. 209C, §§ 15 & 20], the defendant to **vacate, refrain from abusing** the plaintiff or to **have no contact** with the plaintiff or the plaintiff’s minor child . . . .

“Any violation of such order or a protection order issued by another jurisdiction shall be punishable by a fine of not more than five thousand dollars, or by imprisonment for not more than two and one-half years in a house of correction, or by both such fine and imprisonment. In addition to, but not in lieu of, the forgoing penalties and any other sentence, fee or assessment, including the victim witness assessment in section 8 of chapter 258B, the court shall order persons convicted of a crime under this statute to pay a fine of \$25 that shall be transmitted to the treasurer for deposit into the General Fund.” G.L. c. 209A, § 7, ¶¶ 2 & 5.

*Restitution*

“In each instance where there is a violation of an abuse prevention order or a protection order issued by another jurisdiction, the court may order the defendant to pay the plaintiff for all damages including, but not limited to, cost for shelter or emergency housing, loss of

*Harassment Prevention Orders (G.L. c. 258E)*

“Any protection order issued by another jurisdiction shall be given full faith and credit throughout the commonwealth and enforced as if it were issued in the commonwealth for as long as the order is in effect in the issuing jurisdiction.

“A person entitled to protection under a protection order issued by another jurisdiction may file such order with the appropriate court by filing with the court a certified copy of such order.

“Such person shall swear under oath in an affidavit, to the best of such person’s knowledge, that such order is presently in effect as written. Upon request by a law enforcement agency, the clerk or clerk-magistrate of such court shall provide a certified copy of the protection order issued by the other jurisdiction.

“A law officer may presume the validity of, and enforce in accordance with section 8, a copy of a protection order issued by another jurisdiction which has been provided to the law officer by any source; provided, however, that the officer is also provided with a statement by the person protected by the order that such order remains in effect. Law officers may rely on such statement by the person protected by such order.” G.L. c. 258E, § 7.

*Criminal penalties*

“Whenever the court orders that the defendant **refrain from harassing** the plaintiff or **have no contact** with the plaintiff under section 3, 5 or 6 . . . .

“Any violation of such order or a protection order issued by another jurisdiction shall be 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. In addition to, but not in lieu of, the foregoing penalties and any other sentence, fee or assessment, including the victim witness assessment in section 8 of chapter 258B, the court shall order persons convicted of a violation of such an order to pay a fine of \$25 that shall be transmitted to the treasurer for deposit into the General Fund . . . .” G.L. c. 258E, § 9, ¶¶ 2 & 5.

*Restitution*

“In each instance in which there is a violation of a harassment prevention order or a protection order issued by another jurisdiction, the court may order the defendant to pay the plaintiff for all damages including, but not limited to, loss of earnings, out-of-

*Violations, cont'd*

*Abuse Prevention Orders (G.L. c. 209A)*

earnings or support, out-of-pocket losses for injuries sustained or property damaged, medical expenses, moving expenses, cost for obtaining an unlisted telephone number, and reasonable attorney's fees." G.L. c. 209A, § 7, ¶ 9.

*Batterer's intervention program & \$350 assessment*

"For any violation of such order, the court shall order the defendant to complete a certified batterer's intervention program unless, upon good cause shown, the court issues specific written findings describing the reasons that batterer's intervention should not be ordered or unless the batterer's intervention program determines that the defendant is not suitable for intervention. The court shall not order substance abuse or anger management treatment or any other form of treatment as a substitute for certified batterer's intervention. If a defendant ordered to undergo treatment has received a suspended sentence, the original sentence shall be reimposed if the defendant fails to participate in said program as required by the terms of his probation. If the court determines that the violation was in retaliation for the defendant being reported by the plaintiff to the department of revenue for failure to pay child support payments or for the establishment of paternity, the defendant shall be punished by a fine of not less than one thousand dollars and not more than ten thousand dollars and by imprisonment for not less than sixty days; provided, however, that the sentence shall not be suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served sixty days of such sentence.

"When a defendant has been ordered to participate in a treatment program pursuant to this section, the defendant shall be required to regularly attend a certified or provisionally certified batterer's treatment program. To the extent permitted by professional requirements of confidentiality, said program shall communicate with local battered women's programs for the purpose of protecting the victim's safety. Additionally, it shall specify the defendant's attendance requirements and keep the probation department informed of whether the defendant is in compliance." G.L. c. 209A, § 7, ¶¶ 5-6.

"The court shall impose an assessment of three hundred and fifty dollars against any person who has been referred to a certified batterers' treatment program as a condition of probation. Said assessment shall be in addition to the cost of the treatment program. In the discretion of the court, said assessment may be reduced or waived when the court finds that the person is indigent or that payment of the assessment would cause the person, or the dependents of such person, severe financial hardship. Assessments made pursuant to this section shall be in addition to any other fines, assessments, or restitution imposed in any disposition. All funds collected by the court pursuant to this section shall be transmitted monthly to the state treasurer, who shall deposit said funds in the General Fund." G.L. c. 209A, § 10.

*Harassment Prevention Orders (G.L. c. 258E)*

pocket losses for injuries sustained or property damaged, cost of replacement locks, medical expenses, cost for obtaining an unlisted telephone number and reasonable attorney's fees." G.L. c. 258E, § 9, ¶ 6.

*Appropriate treatment program & \$350 assessment*

". . . For any violation of such order, the court may order the defendant to complete an appropriate treatment program based on the offense . . ." G.L. c. 258E, § 9.

"The court shall impose an assessment of \$350 against any person who has been referred to a treatment program as a condition of probation. Such assessment shall be in addition to the cost of the treatment program. In the discretion of the court, such assessment may be reduced or waived if the court finds that such person is indigent or that payment of the assessment would cause the person, or the dependents of such person, severe financial hardship. Assessments made pursuant to this section shall be in addition to any other fines, assessments or restitution imposed in any disposition. All funds collected by the court pursuant to this section shall be transmitted monthly to the state treasurer, who shall deposit such funds into the General Fund." G.L. c. 258E, § 12.

*Violations, cont'd*

*Substance abuse treatment*

“In addition to, but not in lieu of, such orders for treatment, if the defendant has a substance abuse problem, the court may order appropriate treatment for such problem. All ordered treatment shall last until the end of the probationary period or until the treatment program decides to discharge the defendant, whichever comes first. When the defendant is not in compliance with the terms of probation, the court shall hold a revocation of probation hearing. To the extent possible, the defendant shall be responsible for paying all costs for court ordered treatment.” G.L. c. 209A, § 7, ¶ 7.

*GPS-Monitored Exclusion Zones*

“Where a defendant has been found in violation of an abuse prevention order under this chapter or a protection order issued by another jurisdiction, the court may, in addition to the penalties provided for in this section after conviction, as an alternative to incarceration and, as a condition of probation, prohibit contact with the victim through the establishment of court defined geographic exclusion zones including, but not limited to, the areas in and around the complainant’s residence, place of employment, and the complainant’s child’s school, and order that the defendant to wear a global positioning satellite tracking device designed to transmit and record the defendant’s location data. If the defendant enters a court defined exclusion zone, the defendant’s location data shall be immediately transmitted to the complainant, and to the police, through an appropriate means including, but not limited to, the telephone, an electronic beeper or a paging device. The global positioning satellite device and its tracking shall be administered by the department of probation. If a court finds that the defendant has entered a geographic exclusion zone, it shall revoke his probation and the defendant shall be fined, imprisoned or both as provided in this section. Based on the defendant’s ability to pay, the court may also order him to pay the monthly costs or portion thereof for monitoring through the global positioning satellite tracking system.” G.L. c. 209A, § 7.

*Civil contempt*

“Any action commenced under the provisions of this chapter shall not preclude any other civil or criminal remedies.” G.L. c. 209A, § 3, ¶ 9.

“Any such violation may be enforced in the superior, the district or Boston municipal court departments. Criminal remedies provided herein are not exclusive and do not preclude any other available civil or criminal remedies. The superior, probate and family, district and Boston municipal court departments may each enforce by civil contempt procedure a violation of its own court order.” G.L. c. 209A, § 7, ¶ 10.

*Civil contempt*

“An action commenced under this chapter shall not preclude any other civil or criminal remedies.” G.L. c. 258E, § 3(g).

“Any such violation may be enforced by the court. Criminal remedies provided herein are not exclusive and do not preclude any other available civil or criminal remedies. The court may enforce by civil contempt procedure a violation of its own court order.” G.L. c. 258E, § 9, ¶ 7.

*Abuse Prevention Orders (G.L. c. 209A)*

*Confidentiality of  
plaintiff's address*

“The records of cases arising out of an action brought under the provisions of this chapter where the plaintiff or defendant is a minor shall be withheld from public inspection except by order of the court; provided, that such records shall be open, at all reasonable times, to the inspection of the minor, said minor’s parent, guardian, attorney, and to the plaintiff and the plaintiff’s attorney, or any of them.

“The plaintiff’s residential address, residential telephone number and workplace name, address and telephone number, contained within the court records of cases arising out of an action brought by a plaintiff under the provisions of this chapter, shall be confidential and withheld from public inspection, except by order of the court, except that the plaintiff’s residential address and workplace address shall appear on the court order and accessible to the defendant and the defendant’s attorney unless the plaintiff specifically requests that this information be withheld from the order. All confidential portions of the records shall be accessible at all reasonable times to the plaintiff and plaintiff’s attorney, to others specifically authorized by the plaintiff to obtain such information, and to prosecutors, victim-witness advocates as defined in section 1 of chapter 258B, domestic violence victim’s counselors as defined in section 20K of chapter 233, sexual assault counselors as defined in section 20J of chapter 233, and law enforcement officers, if such access is necessary in the performance of their duties. The provisions of this paragraph shall apply to any protection order issued by another jurisdiction, as defined in section 1, that is filed with a court of the commonwealth pursuant to section 5A. Such confidential portions of the court records shall not be deemed to be public records under the provisions of clause twenty-sixth of section 7 of chapter 4.” G.L. c. 209A, § 8.

*Statewide registry  
of restraining  
orders*

“When considering a complaint filed under this chapter, a judge shall cause a search to be made of the records contained within the statewide domestic violence record keeping system maintained by the office of the commissioner of probation and shall review the resulting data to determine whether the named defendant has a civil or criminal record involving domestic or other violence.” G.L. c. 209A, § 7.

*Harassment Prevention Orders (G.L. c. 258E)*

*[G.L. c. 258E, § 10 is identical to G.L. c. 209A, § 8, except that it omits reference to access by “domestic violence victim’s counselors as defined in section 20K of chapter 233.”]*

“When considering a complaint filed under this chapter, the court shall order a review of the records contained within the court activity record information system and the statewide domestic violence recordkeeping system, as provided in chapter 188 of the acts of 1992 and maintained by the commissioner of probation, and shall review the resulting data to determine whether the named defendant has a civil or criminal record involving violent crimes or abuse . . . .

“Whenever the court orders that the defendant refrain from harassing the plaintiff or have no contact with the plaintiff under section 3, 5 or 6, the clerk or clerk-magistrate shall transmit: (I) to the office of the commissioner of probation information for filing in the court activity record information system or the statewide domestic violence recordkeeping system as provided in said chapter 188 of the acts of 1992 or in a recordkeeping system created by the commissioner of probation to record the issuance of, or violation of, prevention orders issued pursuant to this chapter . . . .

*Abuse Prevention Orders (G.L. c. 209A)*

*Statewide registry,  
cont'd*

*Police  
responsibilities*

“Whenever any law officer has reason to believe that a family or household member has been abused or is in danger of being abused, such officer shall use all reasonable means to prevent further abuse. The officer shall take, but not be limited to the following action:

“(1) remain on the scene of where said abuse occurred or was in danger of occurring as long as the officer has reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of a law officer. This shall include, but not be limited to remaining in the dwelling for a reasonable period of time;

“(2) assist the abused person in obtaining medical treatment necessitated by an assault, which may include driving the victim to the emergency room of the nearest hospital, or arranging for appropriate transportation to a health care facility, notwithstanding any law to the contrary;

“(3) assist the abused person in locating and getting to a safe place; including but not limited to a designated meeting place for a shelter or a family member’s or friend’s residence. The officer shall consider the victim’s preference in this regard and what is reasonable under all the circumstances;

“(4) give such person immediate and adequate notice of his or her rights. Such notice shall consist of handing said person a copy of the statement which follows below and reading the same to said person.

Where said person’s native language is not English, the statement shall be then provided in said person’s native language whenever possible.

““You have the right to appear at the Superior, Probate and Family, District or Boston Municipal Court, if you reside within the appropriate jurisdiction, and file a complaint requesting any of the following applicable orders: (a) an order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household, building or workplace; (c) an order awarding you custody of a minor child; (d) an order directing your attacker to pay support for you or any minor child in your custody, if the attacker has a legal obligation of support; and (e) an order directing your attacker to pay you for losses suffered as a result of abuse, including medical and moving expenses, loss of earnings or support, costs for restoring utilities and replacing locks, reasonable attorney’s fees and other out-of-pocket losses for injuries and property damage sustained.

*Harassment Prevention Orders (G.L. c. 258E)*

The commissioner of probation may develop and implement a statewide harassment prevention order recordkeeping system.” G.L. c. 258E, § 9, ¶¶ 1 & 2.

“Whenever a law officer has reason to believe that a person has been abused or harassed or is in danger of being abused or harassed, such officer shall use all reasonable means to prevent further abuse or harassment. Law officers shall make every effort to do the following as part of the emergency response:

“(i) assess the immediate physical danger to the victim and provide assistance reasonably intended to mitigate the safety risk;

“(ii) if there is observable injury to the victim or if the victim is complaining of injury, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;

“(iii) if a sexual assault has occurred, notify the victim that there are time-sensitive medical or forensic options that may be available, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;

“(iv) provide the victim with referrals to local resources that may assist the victim in locating and getting to a safe place; and

“(v) provide adequate notice to the victim of his rights including, but not limited to, obtaining a harassment prevention order.” G.L. c. 258E, § 8.

*Police  
responsibilities,  
cont'd*

“For an emergency on weekends, holidays, or weeknights the police will refer you to a justice of the superior, probate and family, district, or Boston municipal court departments.”

“You have the right to go to the appropriate district court or the Boston municipal court and seek a criminal complaint for threats, assault and battery, assault with a deadly weapon, assault with intent to kill or other related offenses.

“If you are in need of medical treatment, you have the right to request that an officer present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment.

“If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and your children can leave or until your safety is otherwise ensured. You may also request that the officer assist you in locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter or a family member’s or a friend’s residence, or a similar place of safety.

“You may request a copy of the police incident report at no cost from the police department.’

“The officer shall leave a copy of the foregoing statement with such person before leaving the scene or premises.

“(5) assist such person by activating the emergency judicial system when the court is closed for business;

“(6) inform the victim that the abuser will be eligible for bail and may be promptly released; and

“(7) arrest any person a law officer witnesses or has probable cause to believe has violated a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to section eighteen, thirty-four B or thirty-four C of chapter two hundred and eight, section thirty-two of chapter two hundred and nine, section three, three B, three C, four or five of this chapter, or sections fifteen or twenty of chapter two hundred and nine C or similar protection order issued by another jurisdiction. When there are no vacate, restraining, or no-contact orders or judgments in effect, arrest shall be the preferred response whenever an officer witnesses or has probable cause to believe that a person:

“(a) has committed a felony;

“(b) has committed a misdemeanor involving abuse as defined in section one of this chapter;

“(c) has committed an assault and battery in violation of section thirteen A of chapter two hundred and sixty-five.

“The safety of the victim and any involved children shall be paramount in any decision to arrest. Any officer arresting both parties must submit a detailed, written report in addition to an incident report, setting forth the grounds for dual arrest.

“No law officer investigating an incident of domestic violence shall threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of

*Abuse Prevention Orders (G.L. c. 209A)*

*Harassment Prevention Orders (G.L. c. 258E)*

*Police  
responsibilities,  
cont'd*

requests for law enforcement intervention by any party.

“No law officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a domestic violence incident for an arrest based on probable cause when such officer acted reasonably and in good faith and in compliance with this chapter and the statewide policy as established by the secretary of public safety.

“Whenever any law officer investigates an incident of domestic violence, the officer shall immediately file a written incident report in accordance with the standards of the officer’s law enforcement agency and, wherever possible, in the form of the National Incident-Based Reporting System, as defined by the Federal Bureau of Investigation. The latter information may be submitted voluntarily by the local police on a monthly basis to the crime reporting unit of the criminal history systems board.

“The victim shall be provided a copy of the full incident report at no cost upon request to the appropriate law enforcement department.

“When a judge or other person authorized to take bail bails any person arrested under the provisions of this chapter, he shall make reasonable efforts to inform the victim of such release prior to or at the time of said release.

“When any person charged with or arrested for a crime involving abuse under this chapter is released from custody, the court or the emergency response judge shall issue, upon the request of the victim, a written no-contact order prohibiting the person charged or arrested from having any contact with the victim and shall use all reasonable means to notify the victim immediately of release from custody. The victim shall be given at no cost a certified copy of the no-contact order.” G.L. c. 209A, § 6.

“Law enforcement officers shall use every reasonable means to enforce such abuse prevention orders. Law enforcement agencies shall establish procedures adequate to insure that an officer on the scene of an alleged violation of such order may be informed of the existence and terms of such order. The court shall notify the appropriate law enforcement agency in writing whenever any such order is vacated and shall direct the agency to destroy all record of such vacated order and such agency shall comply with that directive.” G.L. c. 209A, § 7, ¶ 3.

“Law officers shall use every reasonable means to enforce such harassment prevention orders. Law enforcement agencies shall establish procedures adequate to ensure that an officer on the scene of an alleged violation of such order may be informed of the existence and terms of such order. The court shall notify the appropriate law enforcement agency in writing whenever any such order is vacated and shall direct the agency to destroy all record of such vacated order and such agency shall comply with that directive.” G.L. c. 258E, § 9, ¶ 3.

THE COMMONWEALTH OF MASSACHUSETTS

In the Year Two Thousand and Ten

AN ACT RELATIVE TO HARASSMENT PREVENTION ORDERS.

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

The General Laws are hereby amended by inserting after chapter 258D the following chapter:-

CHAPTER 258E

HARASSMENT PREVENTION ORDERS

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Abuse", attempting to cause or causing physical harm to another or placing another in fear of imminent serious physical harm.

"Harassment", (i) 3 or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse or damage to property and that does in fact cause fear, intimidation, abuse or damage to property; or (ii) an act that: (A) by force, threat or duress causes another to involuntarily engage in sexual relations; or (B) constitutes a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43 or 43A of chapter 265 or section 3 of chapter 272.

"Court", the district or Boston municipal court, the superior court or the juvenile court departments of the trial court.

"Law officer", any officer authorized to serve criminal process.

"Malicious", characterized by cruelty, hostility or revenge.

"Protection order issued by another jurisdiction", an injunction or other order issued by a court of another state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or a tribal court that is issued for the purpose of preventing violent or threatening acts, abuse or harassment against, or contact or communication with or physical proximity to another person, including temporary and final orders issued by civil and criminal courts filed by or on behalf of a person seeking protection.

Section 2. Proceedings under this chapter shall be filed, heard and determined in the superior court department or the Boston municipal court department or the respective divisions of the juvenile or district court departments having venue over the plaintiff's residence. The juvenile court

shall have jurisdiction over all proceedings under this chapter in which both the plaintiff and the defendant are under the age of 17.

Section 3. (a) A person suffering from harassment may file a complaint in the appropriate court requesting protection from such harassment. A person may petition the court under this chapter for an order that the defendant:

(i) refrain from abusing or harassing the plaintiff, whether the defendant is an adult or minor;

(ii) refrain from contacting the plaintiff, unless authorized by the court, whether the defendant is an adult or minor;

(iii) remain away from the plaintiff's household or workplace, whether the defendant is an adult or minor; and

(iv) pay the plaintiff monetary compensation for the losses suffered as a direct result of the harassment; provided, however, that compensatory damages shall include, but shall not be limited to, loss of earnings, out-of-pocket losses for injuries sustained or property damaged, cost of replacement of locks, medical expenses, cost for obtaining an unlisted phone number and reasonable attorney's fees.

(b) The court may order that information in the case record be impounded in accordance with court rule.

(c) No filing fee shall be charged for the filing of the complaint. The plaintiff shall not be charged for certified copies of any orders entered by the court, or any copies of the file reasonably required for future court action or as a result of the loss or destruction of plaintiff's copies.

(d) Any relief granted by the court shall not extend for a period exceeding 1 year. Every order shall, on its face, state the time and date the order is to expire and shall include the date and time that the matter will again be heard. If the plaintiff appears at the court at the date and time the order is to expire, the court shall determine whether or not to extend the order for any additional time reasonably necessary to protect the plaintiff or to enter a permanent order. When the expiration date stated on the order is on a date when the court is closed to business, the order shall not expire until the next date that the court is open to business. The plaintiff may appear on such next court business day at the time designated by the order to request that the order be extended. The court may also extend the order upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff from harassment. The fact that harassment has not occurred during the pendency of an order shall not, in itself, constitute sufficient ground for denying or failing to extend the order, or allowing an order to expire or be vacated or for refusing to issue a new order.

(e) The court may modify its order at any subsequent time upon motion by either party; provided, however, that the non-moving party shall receive sufficient notice and opportunity to be heard on said modification. When the plaintiff's address is inaccessible to the defendant as provided in section 10 and the defendant has filed a motion to modify the court's order, the court shall be responsible for notifying the plaintiff. In no event shall the court disclose any such inaccessible address.

(f) The court shall not deny any complaint filed under this chapter solely because it was not filed within a particular time period after the last alleged incident of harassment.

(g) An action commenced under this chapter shall not preclude any other civil or criminal remedies. A party filing a complaint under this chapter shall be required to disclose any prior or pending actions involving the parties.

Section 4. Upon the filing of a complaint under this chapter, a complainant shall be informed that the proceedings hereunder are civil in nature and that violations of orders issued hereunder are criminal in nature. Further, a complainant shall be given information prepared by the appropriate district attorney's office that other criminal proceedings may be available and such complainant shall be instructed by such district attorney's office relative to the procedures required to initiate criminal proceedings including, but not limited to, a complaint for a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43 and 43A of chapter 265 or section 3 of chapter 272. Whenever possible, a complainant shall be provided with such information in the complainant's native language.

Section 5. Upon the filing of a complaint under this chapter, the court may enter such temporary orders as it deems necessary to protect a plaintiff from harassment, including relief as provided in section 3.

If the plaintiff demonstrates a substantial likelihood of immediate danger of harassment, the court may enter such temporary relief orders without notice as it deems necessary to protect the plaintiff from harassment and shall immediately thereafter notify the defendant that the temporary orders have been issued. The court shall give the defendant an opportunity to be heard on the question of continuing the temporary order and of granting other relief as requested by the plaintiff not later than 10 court business days after such orders are entered.

Notice shall be made by the appropriate law enforcement agency as provided in section 9.

If the defendant does not appear at such subsequent hearing, the temporary orders shall continue in effect without further order of the court.

Section 6. When the court is closed for business or the plaintiff is unable to appear in court because of severe hardship due to the plaintiff's physical condition, the court may grant relief to the plaintiff as provided under section 5 if the plaintiff demonstrates a substantial likelihood of immediate danger of harassment. In the discretion of the justice, such relief may be granted and communicated by telephone to an officer or employee of an appropriate law enforcement agency, who shall record such order on a form of order promulgated for such use by the chief justice for administration and management and shall deliver a copy of such order on the next court day to the clerk or clerk-magistrate of the court having venue and jurisdiction over the matter. If relief has been granted without the filing of a complaint pursuant to this section, the plaintiff shall appear in court on the next available business day to file a complaint. If the plaintiff in such a case is unable to appear in court without severe hardship due to the plaintiff's physical condition, a representative may appear in court, on the plaintiff's behalf and file the requisite complaint with an affidavit setting forth the circumstances preventing the plaintiff from appearing personally. Notice to the plaintiff and defendant and an opportunity for the defendant to be heard shall be given as provided in said section 5.

Any order issued under this section and any documentation in support thereof shall be certified on the next court day by the clerk or clerk-magistrate of the court issuing such order to the court having venue and jurisdiction over the matter. Such certification to the court shall have the effect of commencing proceedings under this chapter and invoking the other provisions of this chapter but shall not be deemed necessary for an emergency order issued under this section to take effect.

Section 7. Any protection order issued by another jurisdiction shall be given full faith and credit throughout the commonwealth and enforced as if it were issued in the commonwealth for as long as the order is in effect in the issuing jurisdiction.

A person entitled to protection under a protection order issued by another jurisdiction may file such order with the appropriate court by filing with the court a certified copy of such order. Such person shall swear under oath in an affidavit, to the best of such person's knowledge, that such order is presently in effect as written. Upon request by a law enforcement agency, the clerk or clerk-magistrate of such court shall provide a certified copy of the protection order issued by the other jurisdiction.

A law officer may presume the validity of, and enforce in accordance with section 8, a copy of a protection order issued by another jurisdiction which has been provided to the law officer by any source; provided, however, that

the officer is also provided with a statement by the person protected by the order that such order remains in effect. Law officers may rely on such statement by the person protected by such order.

Section 8. Whenever a law officer has reason to believe that a person has been abused or harassed or is in danger of being abused or harassed, such officer shall use all reasonable means to prevent further abuse or harassment. Law officers shall make every effort to do the following as part of the emergency response:

(i) assess the immediate physical danger to the victim and provide assistance reasonably intended to mitigate the safety risk;

(ii) if there is observable injury to the victim or if the victim is complaining of injury, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;

(iii) if a sexual assault has occurred, notify the victim that there are time-sensitive medical or forensic options that may be available, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;

(iv) provide the victim with referrals to local resources that may assist the victim in locating and getting to a safe place; and

(v) provide adequate notice to the victim of his rights including, but not limited to, obtaining a harassment prevention order.

Section 9. When considering a complaint filed under this chapter, the court shall order a review of the records contained within the court activity record information system and the statewide domestic violence recordkeeping system, as provided in chapter 188 of the acts of 1992 and maintained by the commissioner of probation, and shall review the resulting data to determine whether the named defendant has a civil or criminal record involving violent crimes or abuse. Upon receipt of information that an outstanding warrant exists against the named defendant, a judge shall order that the appropriate law enforcement officials be notified and shall order that any information regarding the defendant's most recent whereabouts shall be forwarded to such officials. In all instances in which an outstanding warrant exists, the court shall make a finding, based upon all of the circumstances, as to whether an imminent threat of bodily injury exists to the petitioner. In all instances in which such an imminent threat of bodily injury is found to exist, the judge shall notify the appropriate law enforcement officials of such finding and such officials shall take all necessary actions to execute any such outstanding warrant as soon as is practicable.

Whenever the court orders that the defendant refrain from harassing the plaintiff or have no contact with the plaintiff under section 3, 5 or 6, the clerk or clerk-magistrate shall transmit: (i) to the office of the commissioner of probation information for filing in the court activity record information system or the statewide domestic violence recordkeeping system as provided in said chapter 188 of the acts of 1992 or in a recordkeeping system created by the commissioner of probation to record the issuance of, or violation of, prevention orders issued pursuant to this chapter; and (ii) 2 certified copies of each such order and 1 copy of the complaint and summons forthwith to the appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve 1 copy of each order upon the defendant, together with a copy of the complaint and order and summons. The law enforcement agency shall promptly make its return of service to the court. The commissioner of probation may develop and implement a statewide harassment prevention order recordkeeping system.

Law officers shall use every reasonable means to enforce such harassment prevention orders. Law enforcement agencies shall establish procedures adequate to ensure that an officer on the scene of an alleged violation of such order may be informed of the existence and terms of such order. The court shall notify the appropriate law enforcement agency in writing whenever any such order is vacated and shall direct the agency to destroy all record of such vacated order and such agency shall comply with that directive.

Each harassment prevention order issued shall contain the following statement:

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

Any violation of such order or a protection order issued by another jurisdiction shall be 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. In addition to, but not in lieu of, the foregoing penalties and any other sentence, fee or assessment, including the victim witness assessment in section 8 of chapter 258B, the court shall order persons convicted of a violation of such an order to pay a fine of \$25 that shall be transmitted to the treasurer for deposit into the General Fund. For any violation of such order, the court may order the defendant to complete an appropriate treatment program based on the offense.

In each instance in which there is a violation of a harassment prevention order or a protection order issued by another jurisdiction, the court may order the defendant to pay the plaintiff for all damages including, but not limited to, loss of earnings, out-of-pocket losses for injuries sustained or

property damaged, cost of replacement locks, medical expenses, cost for obtaining an unlisted telephone number and reasonable attorney's fees.

Any such violation may be enforced by the court. Criminal remedies provided herein are not exclusive and do not preclude any other available civil or criminal remedies. The court may enforce by civil contempt procedure a violation of its own court order.

Section 8 of chapter 136 shall not apply to any order, complaint or summons issued pursuant to this section.

Section 10. The records of cases arising out of an action brought under this chapter in which the plaintiff or defendant is a minor shall be withheld from public inspection except by order of the court; provided, however, that such records shall be open, at all reasonable times, to the inspection of the minor, such minor's parent, guardian and attorney and to the plaintiff and the plaintiff's attorney.

The plaintiff's residential address, residential telephone number and workplace name, address and telephone number, contained within the court records of cases arising out of an action brought by a plaintiff under this chapter, shall be confidential and withheld from public inspection, except by order of the court; provided, however, that the plaintiff's residential address and workplace address shall appear on the court order and be accessible to the defendant and the defendant's attorney unless the plaintiff specifically requests that this information be withheld from the order. All confidential portions of the records shall be accessible at all reasonable times to the plaintiff and plaintiff's attorney, to others specifically authorized by the plaintiff to obtain such information and to prosecutors, victim-witness advocates as defined in section 1 of chapter 258B, sexual assault counselors as defined in section 20J of chapter 233 and law officers, if such access is necessary in the performance of their duties. This paragraph shall apply to any protection order issued by another jurisdiction filed with a court of the commonwealth pursuant to section 7. Such confidential portions of the court records shall not be deemed to be public records under clause Twenty-sixth of section 7 of chapter 4.

Section 11. The chief justice for administration and management shall adopt a form of complaint for use under this chapter which shall be in such form and language to permit a plaintiff to prepare and file such complaint pro se.

Section 12. The court shall impose an assessment of \$350 against any person who has been referred to a treatment program as a condition of probation. Such assessment shall be in addition to the cost of the treatment program. In the discretion of the court, such assessment may be reduced or

waived if the court finds that such person is indigent or that payment of the assessment would cause the person, or the dependents of such person, severe financial hardship. Assessments made pursuant to this section shall be in addition to any other fines, assessments or restitution imposed in any disposition. All funds collected by the court pursuant to this section shall be transmitted monthly to the state treasurer, who shall deposit such funds into the General Fund.

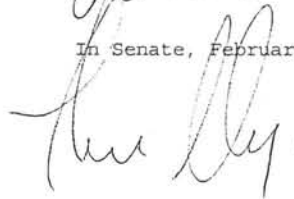
House of Representatives, February 4, 2010.

Passed to be enacted,

 Acting Speaker.

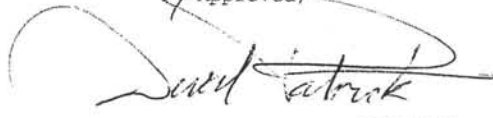
In Senate, February 4, 2010.

Passed to be enacted,

 President.

9 February, 2010.

Approved,

  
Governor.

<input type="checkbox"/> BOSTON MUNICIPAL COURT	<input type="checkbox"/> DISTRICT COURT	<input type="checkbox"/> JUVENILE COURT	<input type="checkbox"/> SUPERIOR COURT	DIVISION
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NAME OF PLAINTIFF <i>(person seeking protection)</i>	NAME OF DEFENDANT <i>(person accused of harassment)</i>
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I am: <input type="checkbox"/> 18 or older <input type="checkbox"/> 17 <input type="checkbox"/> 16 or younger The Defendant is: <input type="checkbox"/> 18 or older <input type="checkbox"/> 17 <input type="checkbox"/> 16 or younger  <input type="checkbox"/> I am under the age of 18 and _____, my _____ <i>(relationship to Plaintiff)</i> , has filed this Complaint for me.	Are there any prior or pending actions between the plaintiff and the defendant? <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If so, list court, type of case, date and docket no. (if available)</i>
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<b>I SUFFERED HARASSMENT WHEN:</b> <input type="checkbox"/> on or about <i>(dates)</i> _____ the Defendant committed 3 or more acts of willful and malicious conduct aimed at me which were committed with the intent to cause fear, intimidation, abuse or damage to property and did in fact cause fear, intimidation, abuse or damage to property. <input type="checkbox"/> on or about <i>(date)</i> _____ the Defendant by force, threat or duress caused me to involuntarily engage in sexual relations. <input type="checkbox"/> on or about <i>(date)</i> _____ the Defendant committed against me an act that constitutes a violation of one of the following statutes: G.L. c. 265, §§ 13B, 13F or 13H (indecent assault and battery), 22 or 22A (rape), 23 (statutory rape), 24 or 24B (assault with intent to rape), 26C (enticing a child), 43 (criminal stalking) or 43A (criminal harassment), or G.L. c. 272, § 3 (drugging for sexual intercourse).	
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<b>THEREFORE, I ASK THE COURT:</b>  <input type="checkbox"/> 1. to order the Defendant not to abuse me by physically harming me, attempting to physically harm me, or placing me in fear of imminent serious physical harm, and to stop harassing me (1) by any willful and malicious conduct aimed at me and intended to cause fear, intimidation, abuse or damage to property, or (2) by using force, threat or duress to make me engage in sexual relations unwillingly, or (3) by committing against me any act that constitutes a violation of any of the following statutes: G.L. c. 265, §§ 13B, 13F or 13H (indecent assault and battery), 22 or 22A (rape), 23 (statutory rape), 24 or 24B (assault with intent to rape), 26C (enticing a child), 43 (criminal stalking) or 43A (criminal harassment), or G.L. c. 272, § 3 (drugging for sexual intercourse). <input type="checkbox"/> 2. to order the Defendant not to contact me, unless authorized to do so by the Court. <input type="checkbox"/> 3. to order the Defendant to remain away from my residence <i>(as listed on the PLAINTIFF CONFIDENTIAL INFORMATION form)</i> . <input type="checkbox"/> 4. to order the Defendant to remain away from my workplace <i>(as listed on the PLAINTIFF CONFIDENTIAL INFORMATION form)</i> . <input type="checkbox"/> 5. to order the Defendant to pay me \$ _____ in compensation for the following losses suffered as a direct result of the harassment: _____ _____ _____ <input type="checkbox"/> 6. to order the relief I have requested, except for compensation for losses suffered, without advance notice to the Defendant because there is a substantial likelihood of immediate danger of harassment. I understand that, if the Court issues such a temporary Order, the Court will schedule a hearing within 10 court business days to determine whether such a temporary Order should be continued, and I must appear in court on that day if I wish the Order to be continued.	
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<b>Please complete the AFFIDAVIT on the reverse of this page, the PLAINTIFF CONFIDENTIAL INFORMATION form, and the DEFENDANT INFORMATION form.</b>	DATE	PLAINTIFF'S SIGNATURE  x
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This is a request for a civil order to protect the Plaintiff from future abuse or harassment. The actions of the Defendant may also constitute a crime subject to criminal penalties. For information about filing a criminal complaint, you may talk with the District Attorney's Office for the location where the alleged harassment occurred.



# INSTRUCTIONS TO THE PLAINTIFF

## HARASSMENT PREVENTION ORDERS

Under Massachusetts General Laws chapter 258E, people who have suffered harassment may ask a judge to issue an Order to protect them from further harassment or abuse. These Orders will be recorded and enforced by law enforcement agencies. They are commonly called “Harassment Prevention Orders” or “Restraining Orders” or “258E Orders.” In any emergency that occurs after court hours or on weekends, you may ask your local police to put you in contact with a judge.

### YOU MUST COMPLETE 4 FORMS:

#### 1. COMPLAINT FORM

To request a Harassment Prevention Order, you must fill out a Complaint form and other appropriate forms. There is no filing fee. You are the “Plaintiff.” The person who you allege has harassed you is the “Defendant.” Please print in ballpoint pen and press hard enough so that all four parts are legible.

***If either party is under 18.*** You are asked to indicate on the form whether you and the Defendant are under 18 years of age because the law provides that if either you or the Defendant is under the age of 18, such cases are not open to public inspection and are available only to the Plaintiff, the Plaintiff’s attorney, the person under 18 and his or her parent, guardian and attorney.

***Other prior or pending actions.*** If there are any prior or pending actions in any state or country between you and the Defendant, please bring any legal papers you have from such actions with you to the courthouse.

***Financial compensation.*** You may request that a judge order the Defendant to compensate you for any financial losses suffered as a direct result of the harassment. These may include, but are not limited to, lost earnings, out-of-pocket losses for injuries sustained or property damaged, the costs for replacement of locks, medical expenses, or obtaining an unlisted phone number, and reasonable attorney’s fees.

#### 2. AFFIDAVIT

When you have completed the Complaint form, turn over the first (white) part and fill out the affidavit on the back. Describe the details of the harassment. If the harassment consisted only of conduct that was willful and malicious but was not a violation of the criminal statutes listed on the front of the complaint form, you must describe at least 3 separate incidents of such harassment to be eligible for a Harassment Prevention Order. Fill out the affidavit even if you are requesting relief after court hours unless a judge directs otherwise.

#### 3. PLAINTIFF CONFIDENTIAL INFORMATION FORM

You must also fill out a Plaintiff Confidential Information Form, which lists your address, telephone number, and related information. The information in this form is confidential and this form is not available to the public, the defendant or the defendant’s attorney. Except with a judge’s permission, this form is available only to you, to your attorney, to those you authorize to have access, and to certain persons when access is necessary in the performance of their duties (prosecutors, law enforcement officers, victim-witness advocates and sexual assault counselors).

However, **if you request that the defendant be ordered to remain away from your residence or workplace addresses, those addresses will appear in the court Order. They will not be available to the public but they will be disclosed to the defendant.** If you do not want those addresses to appear in the court Order and thereby be disclosed to the Defendant, you should specifically request that they be omitted from the court Order.

If you have good reasons why your addresses or other confidential information in this case should not be disclosed to those who would otherwise have access in the course of their duties (prosecutors, law enforcement officers, victim-witness advocates and sexual assault counselors), you may file a Motion for Impoundment under Trial Court Uniform Rule VIII on Impoundment Procedure.

Other court records of this matter will generally be open to public inspection. You may also file a Motion for Impoundment if you have good reasons to ask a judge to keep other parts of the court record from public inspection. Usually a general preference for privacy is not alone a sufficient reason for a judge to impound court records from public inspection.

#### 4. DEFENDANT INFORMATION FORM

The Plaintiff must also fill out the Defendant Information Form. Please provide the requested information to the best of your ability in order to identify the Defendant and where the Defendant can be found. If an Order is issued, this information will be used by law enforcement officers to locate the Defendant to deliver the Order.

<b>HARASSMENT PREVENTION ORDER</b> G.L. c. 258E		DOCKET NO. _____	<b>Massachusetts Trial Court</b>
PLAINTIFF'S NAME _____		COURT NAME & ADDRESS _____	
DEFENDANT'S NAME AND ADDRESS _____	ALIAS, IF ANY _____		MOTHER'S MAIDEN NAME (FIRST & LAST) _____
	DATE OF BIRTH _____	SEX <input type="checkbox"/> Male <input type="checkbox"/> Female	
	PLACE OF BIRTH _____		
	SOCIAL SECURITY NO. _____	DAYTIME PHONE NO. _____	
<b>VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE</b> punishable by imprisonment or fine or both.			
<b>A. THE COURT HAS ISSUED THE FOLLOWING ORDERS TO THE DEFENDANT:</b> <i>(only those items checked shall apply)</i>			
<input type="checkbox"/> This Order was issued without advance notice because the Court determined that there is a substantial likelihood of immediate danger of harassment.		<input type="checkbox"/> This Order was communicated by telephone from the Judge named below to: Police Dept. _____ Police Officer _____	
<input type="checkbox"/> 1. <b>YOU ARE ORDERED NOT TO ABUSE THE PLAINTIFF</b> by harming or attempting to harm the Plaintiff physically or by placing the Plaintiff in fear of imminent serious physical harm. <b>YOU ARE ALSO ORDERED NOT TO HARASS THE PLAINTIFF</b> (1) by any willful and malicious conduct aimed at the Plaintiff and intended to cause fear, intimidation, abuse or damage to property, or (2) by using force, threat or duress to make the Plaintiff engage in sexual relations unwillingly, or (3) by committing any of the following: indecent assault and battery, rape, statutory rape, assault with intent to rape (G.L. c. 265, §§ 13B, 13F, 13H, 22, 22A, 23, 24, 24B), enticing a child (§ 26C), criminal stalking (§ 43), criminal harassment (§ 43A), or drugging for sexual intercourse (G.L. c.272, §3).			
<input type="checkbox"/> 2. <b>YOU ARE ORDERED NOT TO CONTACT THE PLAINTIFF</b> either in person, by telephone, in writing or otherwise, either directly or through someone else, and to stay at least _____ yards from the Plaintiff even if the Plaintiff seems to allow or request contact. The only exception to this Order is that you may send to the Plaintiff by mail or by sheriff or other authorized officer copies of papers filed with the court when that is required by statute or court rule.			
<input type="checkbox"/> 3. <b>YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S RESIDENCE</b> located at _____ and wherever else you have reason to know the Plaintiff may reside. <input type="checkbox"/> If this box is checked, you are also <b>ORDERED</b> to remain away from the entire apartment building or other multiple family dwelling in which the Plaintiff's residence is located.			
<input type="checkbox"/> 4. <b>YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S WORKPLACE</b> located at _____ and wherever else you have reason to know the Plaintiff may work.			
<input type="checkbox"/> 5. <b>YOU ARE ORDERED TO COMPENSATE THE PLAINTIFF</b> for \$ _____ in losses suffered as a direct result of the harassment, to be paid in full on or before _____, 20____ <input type="checkbox"/> by mailing directly to the Plaintiff. <input type="checkbox"/> through the Court.			
<input type="checkbox"/> 6. _____			
<b>B. NOTICE TO LAW ENFORCEMENT</b>			
1. An appropriate law enforcement officer shall serve upon the Defendant in hand a copy of the Complaint and a certified copy of this Order (and Summons) and make return of service to this court. If this box is checked <input type="checkbox"/> service may instead be made by leaving such copies at the Defendant's address shown above but only if the police officer is unable to deliver such copies in hand to the Defendant.			
2. Defendant Information Form accompanies this Order. <input type="checkbox"/> 3. Police reports are on file at the _____ P.D.			
<input type="checkbox"/> 4. Outstanding warrants for the Defendant's arrest: PCF No. _____ Docket No(s). _____			
<input type="checkbox"/> 5. An imminent threat exists of bodily injury to the Plaintiff. _____ P.D. notified by <input type="checkbox"/> telephone <input type="checkbox"/> other: _____			
DATE OF THIS ORDER _____	TIME OF THIS ORDER <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF THIS ORDER _____ at 4 P.M.	SIGNATURE/NAME OF JUDGE _____
NEXT HEARING DATE _____ at _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M. in Courtroom _____			X
FIRST OR CHIEF JUSTICE _____		A TRUE COPY ATTEST: _____	CLERK-MAGISTRATE/ASST. CLERK _____
<b>WITNESS:</b> _____			X
<small>The Plaintiff must appear at scheduled hearings, or this Order will expire. The Defendant may appear, with or without an attorney, to oppose any extension or modification of this Order. If the Defendant does not appear, the Order may be extended or modified as determined by the Judge. For good cause, either the Plaintiff or the Defendant may request the Court to modify this Order before its scheduled expiration date. <b>NOTICE TO DEFENDANT:</b> If the Plaintiff is your spouse or former spouse, or you are the parent of a child of the Plaintiff, or you cohabit or have cohabited with the Plaintiff, the purchase and/or possession of a firearm and/or ammunition while this order is in effect is a federal crime, subject to certain exceptions. 18 U.S.C. §§ 922(g)(8) and 925.</small>			

**TO ANY OFFICER OF THE POLICE DEPARTMENT TO WHICH THE COURT HAS DIRECTED THIS ORDER:**

**PURSUANT TO G.L. c. 258E, §§ 8-9, THIS ORDER SHALL BE ENFORCED BY ANY LAW ENFORCEMENT OFFICER IN THE COMMONWEALTH WHO IS AWARE OF, OR SHOWN A COPY OF, THIS ORDER. IF SERVICE ON THE DEFENDANT HAS NOT YET BEEN MADE, ANY LAW ENFORCEMENT OFFICER SHALL ADVISE THE DEFENDANT OF THE TERMS OF THE ORDER AND THEN SHALL ENFORCE IT.**

The YELLOW COPY of this Order must be served on the Defendant immediately. Please return the GREEN COPY of this Order to the Court with your return of service prior to the next scheduled hearing date, or new service may be required. The BLUE COPY of this Order is for your records.

"Whenever a law officer has reason to believe that a person has been abused or harassed or is in danger of being abused or harassed, such officer shall use all reasonable means to prevent further abuse or harassment. Law officers shall make every effort to do the following as part of the emergency response:

- (i) assess the immediate physical danger to the victim and provide assistance reasonably intended to mitigate the safety risk;
- (ii) if there is observable injury to the victim or if the victim is complaining of injury, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;
- (iii) if a sexual assault has occurred, notify the victim that there are time-sensitive medical or forensic options that may be available, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;
- (iv) provide the victim with referrals to local resources that may assist the victim in locating and getting to a safe place; and
- (v) provide adequate notice to the victim of his rights including, but not limited to, obtaining a harassment prevention order.

"Upon receipt of information that an outstanding warrant exists against the named defendant, a judge shall order that the appropriate law enforcement officials be notified and shall order that any information regarding the defendant's most recent whereabouts shall be forwarded to such officials. In all instances in which an outstanding warrant exists, the court shall make a finding, based upon all of the circumstances, as to whether an imminent threat of bodily injury exists to the petitioner. In all instances in which such an imminent threat of bodily injury is found to exist, the judge shall notify the appropriate law enforcement officials of such finding and such officials shall take all necessary actions to execute any such outstanding warrant as soon as is practicable.

"Whenever the court orders that the defendant refrain from harassing the plaintiff or have no contact with the plaintiff . . . the clerk or clerk-magistrate shall transmit . . . 2 certified copies of each such order and 1 copy of the complaint and summons forthwith to the appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve 1 copy of each order upon the defendant, together with a copy of the complaint and order and summons. The law enforcement agency shall promptly make its return of service to the court . . . .

"Law officers shall use every reasonable means to enforce such harassment prevention orders. Law enforcement agencies shall establish procedures adequate to ensure that an officer on the scene of an alleged violation of such order may be informed of the existence and terms of such order."

G.L. c. 258E, §§ 8 & 9

**RETURN OF SERVICE**

I certify that I have served a copy of this Order on the Defendant named in this Order by:

- delivering a copy in hand to the Defendant.
- leaving a copy at the Defendant's last and usual address as shown in this Order.
- Other (*specify*) \_\_\_\_\_  
\_\_\_\_\_
- I was unable to make service because \_\_\_\_\_  
\_\_\_\_\_

DATE & TIME OF SERVICE	SIGNATURE OF OFFICER MAKING SERVICE	
	X	
PRINTED NAME OF OFFICER MAKING SERVICE	TITLE/RANK	POLICE DEPARTMENT

ATENCIÓN: ESTE ES UN AVISO OFICIAL DE LA CORTE. SI USTED NO SABE LEER INGLÉS, OBTENGA UNA TRADUCCIÓN.  
ATTENTION: CEÇI EST UNE ANNONCE OFFICIALE DU PALAIS DE JUSTICE. SI VOUS ÊTES INCAPABLE DE LIRE ANGLAISE, OBTENEZ UNE TRADUCTION.  
ATTENZIONE: IL PRESENTE È UN AVVISO UFFICIALE DAL TRIBUNALE. SE NON SAPETE LEGGERE IN INGLESE, OTTENETE UNA TRADUZIONE.  
ATENÇÃO: ESTE É UM AVISO OFICIAL DO TRIBUNAL. SE NÃO SABE LER INGLÊS, OBTENHA UMA TRADUÇÃO.  
LƯU-Ý: DÂY LÀ THÔNG BÁO CHÍNH THỨC CỦA TÒA-ÁN, NẾU BẠN KHÔNG ĐỌC ĐƯỢC TIẾNG ANH, HÃY TÌM NGƯỜI DỊCH HỘ.

注意：此份表格係官方文件。如果您不諳英文的話，可向法庭官員索取中文翻譯。

**TO ANY OFFICER OF THE POLICE DEPARTMENT TO WHICH THE COURT HAS DIRECTED THIS ORDER:**

**PURSUANT TO G.L. c. 258E, §§ 8-9, THIS ORDER SHALL BE ENFORCED BY ANY LAW ENFORCEMENT OFFICER IN THE COMMONWEALTH WHO IS AWARE OF, OR SHOWN A COPY OF, THIS ORDER. IF SERVICE ON THE DEFENDANT HAS NOT YET BEEN MADE, ANY LAW ENFORCEMENT OFFICER SHALL ADVISE THE DEFENDANT OF THE TERMS OF THE ORDER AND THEN SHALL ENFORCE IT.**

The YELLOW COPY of this Order must be served on the Defendant immediately. Please return the GREEN COPY of this Order to the Court with your return of service prior to the next scheduled hearing date, or new service may be required. The BLUE COPY of this Order is for your records.

"Whenever a law officer has reason to believe that a person has been abused or harassed or is in danger of being abused or harassed, such officer shall use all reasonable means to prevent further abuse or harassment. Law officers shall make every effort to do the following as part of the emergency response:

- (i) assess the immediate physical danger to the victim and provide assistance reasonably intended to mitigate the safety risk;
- (ii) if there is observable injury to the victim or if the victim is complaining of injury, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;
- (iii) if a sexual assault has occurred, notify the victim that there are time-sensitive medical or forensic options that may be available, encourage the victim to seek medical attention and arrange for medical assistance or request an ambulance for transport to a hospital;
- (iv) provide the victim with referrals to local resources that may assist the victim in locating and getting to a safe place; and
- (v) provide adequate notice to the victim of his rights including, but not limited to, obtaining a harassment prevention order.

"Upon receipt of information that an outstanding warrant exists against the named defendant, a judge shall order that the appropriate law enforcement officials be notified and shall order that any information regarding the defendant's most recent whereabouts shall be forwarded to such officials. In all instances in which an outstanding warrant exists, the court shall make a finding, based upon all of the circumstances, as to whether an imminent threat of bodily injury exists to the petitioner. In all instances in which such an imminent threat of bodily injury is found to exist, the judge shall notify the appropriate law enforcement officials of such finding and such officials shall take all necessary actions to execute any such outstanding warrant as soon as is practicable.

"Whenever the court orders that the defendant refrain from harassing the plaintiff or have no contact with the plaintiff . . . the clerk or clerk-magistrate shall transmit . . . 2 certified copies of each such order and 1 copy of the complaint and summons forthwith to the appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve 1 copy of each order upon the defendant, together with a copy of the complaint and order and summons. The law enforcement agency shall promptly make its return of service to the court . . .

"Law officers shall use every reasonable means to enforce such harassment prevention orders. Law enforcement agencies shall establish procedures adequate to ensure that an officer on the scene of an alleged violation of such order may be informed of the existence and terms of such order."

G.L. c. 258E, §§ 8 & 9

ATENCIÓN: ESTE ES UN AVISO OFICIAL DE LA CORTE. SI USTED NO SABE LEER INGLÉS, OBTENGA UNA TRADUCCIÓN.

ATTENTION: CEÇI EST UNE ANNONCE OFFICIALE DU PALAIS DE JUSTICE. SI VOUS ÊTES INCAPABLE DE LIRE ANGLAISE, OBTENEZ UNE TRADUCTION.

ATTENZIONE: IL PRESENTE È UN AVVISO UFFICIALE DAL TRIBUNALE. SE NON SAPETE LEGGERE IN INGLESE, OTTENETE UNA TRADUZIONE.

ATENÇÃO: ESTE É UM AVISO OFICIAL DO TRIBUNAL. SE NÃO SABE LER INGLÊS, OBTENHA UMA TRADUÇÃO.

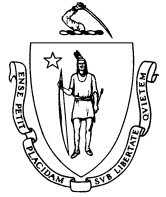
LƯU-Ý: DÂY LÀ THÔNG BÁO CHÍNH THỨC CỦA TÒA-ÁN, NẾU BẠN KHÔNG ĐỌC ĐƯỢC TIẾNG ANH, HÃY TÌM NGƯỜI DỊCH HỘ.

注意：此份表格係官方文件。如果您不諳英文的話，可向法庭官員索取中文翻譯。

<b>MODIFICATION, EXTENSION OR TERMINATION OF HARASSMENT PREVENTION ORDER</b> G.L. c. 258E		DOCKET NO.	<b>Massachusetts Trial Court</b>	
PLAINTIFF'S NAME		COURT NAME & ADDRESS		
DEFENDANT'S NAME				
<input type="checkbox"/> <b>C. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED:</b> This modification was issued after a hearing at which the Plaintiff <input type="checkbox"/> appeared <input type="checkbox"/> did not appear and the Defendant <input type="checkbox"/> appeared <input type="checkbox"/> did not appear. The Court has <b>ORDERED</b> that the prior order issued on _____, 20__ be <b>MODIFIED</b> as follows: <input type="checkbox"/> The expiration date of this order has been <b>EXTENDED</b> (see below). <input type="checkbox"/> <b>OTHER MODIFICATION(S)</b> _____ _____ _____				
DATE OF THIS ORDER	TIME OF THIS ORDER <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF THIS ORDER	SIGNATURE/NAME OF JUDGE	
NEXT HEARING DATE		at _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M. in Courtroom _____		X
<input type="checkbox"/> <b>D. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED:</b> This modification was issued after a hearing at which the Plaintiff <input type="checkbox"/> appeared <input type="checkbox"/> did not appear and the Defendant <input type="checkbox"/> appeared <input type="checkbox"/> did not appear. The Court has <b>ORDERED</b> that the prior order issued on _____, 20__ be <b>MODIFIED</b> as follows: <input type="checkbox"/> The expiration date of this order has been <b>EXTENDED</b> (see below). <input type="checkbox"/> <b>OTHER MODIFICATION(S)</b> _____ _____ _____				
DATE OF THIS ORDER	TIME OF THIS ORDER <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF THIS ORDER	SIGNATURE/NAME OF JUDGE	
NEXT HEARING DATE		at _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M. in Courtroom _____		X
<input type="checkbox"/> <b>E. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED:</b> This modification was issued after a hearing at which the Plaintiff <input type="checkbox"/> appeared <input type="checkbox"/> did not appear and the Defendant <input type="checkbox"/> appeared <input type="checkbox"/> did not appear. The Court has <b>ORDERED</b> that the prior order issued on _____, 20__ be <b>MODIFIED</b> as follows: <input type="checkbox"/> The expiration date of this order has been <b>EXTENDED</b> (see below). <input type="checkbox"/> <b>OTHER MODIFICATION(S)</b> _____ _____ _____				
DATE OF THIS ORDER	TIME OF THIS ORDER <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF THIS ORDER	SIGNATURE/NAME OF JUDGE	
NEXT HEARING DATE		at _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M. in Courtroom _____		X
<input type="checkbox"/> <b>F. PRIOR COURT ORDER (ATTACHED) TERMINATED</b> This Court's prior Order has been terminated. Law enforcement shall destroy all records of such Order. <input type="checkbox"/> Terminated at Plaintiff's request.				
DATE OF PRIOR ORDER	DATE TERMINATION EFFECTIVE		SIGNATURE/NAME OF JUDGE	
DATE OF TERMINATION ORDER	TIME TERMINATION EFFECTIVE <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.		X	
A TRUE COPY ATTEST:	CLERK-MAGISTRATE/ASST. CLERK			
X				

TRIAL COURT OF THE COMMONWEALTH

“COMPLAINT FOR PROTECTION FROM HARASSMENT”  
“HARASSMENT PREVENTION ORDER”



INSTRUCTIONS FOR POLICE DEPARTMENTS AFTER COURT HOURS

When the court is closed for business, any judge assigned to the Judicial Response System may grant relief to a Plaintiff if the Plaintiff demonstrates a substantial likelihood of immediate danger of harassment. “In the discretion of the justice, such relief may be granted and communicated by telephone to an officer or employee of an appropriate law enforcement agency, who shall record such order on a form of order promulgated for such use by the chief justice for administration and management and shall deliver a copy of such order on the next court day to the clerk or clerk-magistrate of the court having venue and jurisdiction over the matter.” G.L. c. 258E, § 6

INSTRUCTIONS FOR USE OF THIS FORMS PACKAGE

This forms package has been promulgated by the Massachusetts Trial Court’s Chief Justice for Administration and Management pursuant to G.L. c. 258E, §§ 6 and 11 for use by police departments to record a Harassment Prevention Order issued by a judge over the telephone when the court is closed for business. Additional supplies of this forms package may be obtained from the Administrative Office of the Trial Court at (617) 878-0322. Please keep any supplies of these forms under adequate security to prevent misuse.

- 1. COMPLAINT FOR PROTECTION FROM HARASSMENT.** It is preferable to have the Plaintiff complete and sign the Complaint form set, if the Plaintiff is able to do so, before contacting a judge. Please print in ballpoint pen and press hard enough so that all four parts (white, pink, yellow and white) are legible. There are instructions on the back of the form set to which the Plaintiff may refer.  
In appropriate circumstances, a judge may issue an Order without the Plaintiff having completed and signed a written Complaint. If the judge does so, please discard the Complaint form set and advise the Plaintiff that G.L. c. 258E, § 6 requires the Plaintiff to appear in court on the next court business day to file such a Complaint.
- 2. AFFIDAVIT.** After the Complaint set has been completed and signed, separate the four parts from the form stub that holds them together. Turn over the original (white) part and ask the Plaintiff to describe the details of the harassment on the Affidavit form printed there. When the Affidavit is complete, please indicate by your signature that you have witnessed the Plaintiff’s signature on the Affidavit.  
In appropriate circumstances, a judge may dispense with the need for an Affidavit. If the judge does so, leave the Affidavit form blank.
- 3. PLAINTIFF CONFIDENTIAL INFORMATION FORM.** Ask the Plaintiff to complete the Plaintiff Confidential Information Form. Seal that form in an envelope marked “PLAINTIFF’S ADDRESS – CONFIDENTIAL.”
- 4. DEFENDANT INFORMATION FORM.** Provide the Plaintiff with the Defendant Information Form and ask the Plaintiff to complete it to the best of his or her ability.
- 5. HARASSMENT PREVENTION ORDER.** Read or summarize the Complaint and Affidavit over the telephone as requested by the judge. Please inform the judge if the Plaintiff does not want his or her residence and workplace addresses to appear in the court Order and thereby to be disclosed to the Defendant. If the judge issues an Order, please complete the Harassment Prevention Order form set, item by item, as the judge directs. Print in ballpoint pen and press hard enough so that all six parts (white, pink, yellow, blue, green and white) are legible. Leave the space for “Docket No.” blank, but enter the name and address of the court where the judge makes the Order returnable. Print your name and police department, and print the name of the judge issuing the Order, in the appropriate spaces. At the bottom left of the Order, print the name of the “First or Chief Justice” as indicated by the issuing judge. Leave blank the space where the clerk-magistrate may attest the Order.
- 6. COLLATING AND DISTRIBUTING COPIES.** Separate the six parts of each page of the Order form set from the form stub that holds them together. If the Plaintiff has completed the Complaint form, match up and staple together the copies of the Complaint form with the matching color copies of the Order form: the white (Court) copies, the pink (Plaintiff’s) copies, the yellow (Defendant’s) copies, and the white (Probation) copies.  
Give the **pink** copies of the Complaint and Order to the Plaintiff.  
Deliver the **white (Court)** copies and the **white (Probation)** copies of the Complaint and Order on the next business day to the clerk-magistrate of the court where the Order is returnable, along with the **Plaintiff Confidential Information Form** in a sealed envelope and the **Defendant Information Form**.  
Arrange for the **yellow** copies of the Complaint and Order to be served on the Defendant as soon as possible. If service on the Defendant cannot be made before the date and time of hearing shown in the Order, service of additional Orders may be necessary.  
The two remaining copies of the Order are for police use: the **blue** copy of the Order is for your records; the **green** copy of the Order may be used for the return of service that must be filed with the Court.

**DEFENDANT INFORMATION FORM**  
**AS PROVIDED BY PLAINTIFF**  
 G.L. c. 209A or G.L. c. 258E

DOCKET NO. (for court use only)

Massachusetts Trial Court



This information is requested to help police to identify and locate the Defendant in order to serve the Defendant with a copy of any restraining Order that is issued. Please provide as much information as possible.

DEFENDANT'S NAME	DATE OF BIRTH
------------------	---------------

OTHER NAMES USED BY DEFENDANT, IF ANY	PLACE OF BIRTH
---------------------------------------	----------------

MOTHER'S MAIDEN NAME (FIRST & LAST)	FATHER'S NAME (FIRST & LAST)	SOCIAL SECURITY NO.
-------------------------------------	------------------------------	---------------------

SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE	EYES	HAIR	HEIGHT	WEIGHT	PHOTO AVAILABLE? (very helpful for ID) <input type="checkbox"/> YES <input type="checkbox"/> NO
---	------	------	------	--------	--------	--

BUILD	OTHER PHYSICAL CHARACTERISTICS (beard, glasses, scars, tattoos, complexion, hairstyle)
-------	--

DEFENDANT'S HOME ADDRESS (NO., STREET, CITY, STATE, ZIP)	DEFENDANT'S HOME TELEPHONE NO.
--	--------------------------------

APT NO.	FLOOR NO.	NAME ON DOOR/MAILBOX	DOES DEFENDANT UNDERSTAND ENGLISH? <input type="checkbox"/> YES <input type="checkbox"/> NO IF NOT, WHAT LANGUAGES?
---------	-----------	----------------------	--

DEFENDANT'S EMPLOYER/WORKPLACE	WORK TELEPHONE NO.
--------------------------------	--------------------

WORK ADDRESS (NO., STREET, CITY, STATE, ZIP)	TITLE
--	-------

DEPARTMENT	WORK HOURS
------------	------------

OTHER PLACES DEFENDANT MAY BE FOUND (friends, bars, relatives, hangouts)	BEST PLACE TO FIND DEFENDANT
--	------------------------------

MOTOR VEHICLE LICENSE PLATE	YEAR	MAKE	MODEL	COLOR	BEST TIMES TO FIND DEFENDANT
-----------------------------	------	------	-------	-------	------------------------------

DOES DEFENDANT HAVE: (describe very briefly)

A history of violence toward police officers?  NO  YES

A history of using/abusing drugs or alcohol?  NO  YES What kind?

Access to guns, a license to carry, or possess a gun?  NO  YES What kind?

Psychiatric/emotional problems?  NO  YES What kind?

ANY OTHER INFORMATION WHICH MIGHT BE HELPFUL IN LOCATING THE DEFENDANT

DATE SIGNED	PRINT PLAINTIFF'S NAME	PLAINTIFF'S SIGNATURE <b>X</b>
-------------	------------------------	-----------------------------------

**PLAINTIFF CONFIDENTIAL INFORMATION FORM**  
G.L. c. 209A, § 8 or G.L. c. 258E, § 10

DOCKET NO. (for court use only)

Massachusetts Trial Court



This form should be sealed in an envelope marked "PLAINTIFF'S ADDRESS – CONFIDENTIAL".

PLAINTIFF'S NAME

PLAINTIFF'S RESIDENTIAL ADDRESS

PLAINTIFF'S RESIDENTIAL TELEPHONE NO.

If this is an apartment building or other multiple family dwelling, check here

ANY FORMER ADDRESS PLAINTIFF HAS LEFT TO AVOID ABUSE (for G.L. c. 209A abuse prevention cases only)

NAME OF PLAINTIFF'S WORKPLACE

ADDRESS OF PLAINTIFF'S WORKPLACE

PLAINTIFF'S WORKPLACE TELEPHONE NO.

NAME OF PLAINTIFF'S SCHOOL

ADDRESS OF PLAINTIFF'S SCHOOL

PERSONS AUTHORIZED BY PLAINTIFF TO HAVE ACCESS TO THIS CONFIDENTIAL INFORMATION

**THIS FORM IS CONFIDENTIAL AND IS NOT AVAILABLE TO THE PUBLIC, THE DEFENDANT OR THE DEFENDANT'S ATTORNEY.**

Except with a judge's permission, this form is available only to you, to your attorney, to those you authorize to have access (see above), and to certain persons when access is necessary in the performance of their duties (prosecutors, law enforcement officers, victim-witness advocates, sexual assault counselors and, in G.L. c. 209A cases, domestic violence counselors).

**IF A JUDGE ORDERS THE DEFENDANT TO REMAIN AWAY FROM YOUR RESIDENCE OR WORKPLACE, THOSE ADDRESSES WILL APPEAR IN THE COURT ORDER. THEY WILL NOT BE AVAILABLE TO THE PUBLIC BUT THEY WILL BE DISCLOSED TO THE DEFENDANT. If you do not want those addresses to appear in the court Order and thereby be disclosed to the Defendant, you should specifically request that they be omitted from the court Order.**

If you and the Defendant are both over 18, other court records of this matter will generally be open to public inspection. If you have good reasons to ask a judge to keep other parts of the court record from public inspection, ask the Clerk's or Register's Office to explain how to file a Motion for Impoundment under Trial Court Uniform Rule VIII on Impoundment Procedure. You may also file a Motion for Impoundment if you have good reasons why your addresses or other confidential information in this case should not be disclosed to those who would otherwise have access in the course of their duties (prosecutors, law enforcement officers, victim-witness advocates, sexual assault counselors and, in G.L. c. 209A cases, domestic violence counselors). Usually, a general preference for privacy is not alone a sufficient reason for a judge to impound court records from public inspection.

If either you or the Defendant are under 18, other court records of this matter will not be open to public inspection, and will be available only to you and the Defendant, and to your attorneys. They will also be available to the parent or guardian of any party who is under 18.

DATE SIGNED

PLAINTIFF'S SIGNATURE

X

**REQUEST FOR ACCESS TO  
PLAINTIFF CONFIDENTIAL INFORMATION**  
G.L. c. 209A, § 8 or G.L. c. 258E, § 10

DOCKET NO.

Massachusetts Trial Court



All requests for access to a Plaintiff's confidential information must be submitted to the Clerk-Magistrate or Register on this form. Requesters "shall present a valid driver's license or other suitable photographic verification of the person's identity and signature and, as required by statute, set forth the reason(s) access to the information is necessary in the performance of their duties." MASSACHUSETTS TRIAL COURT DIRECTIVE OF NOVEMBER 10, 2000.

REQUESTER'S NAME

PLAINTIFF'S NAME

CONFIDENTIAL INFORMATION TO WHICH ACCESS IS REQUESTED

BASIS FOR ACCESS

1.  Plaintiff or Plaintiff's Attorney
2.  Authorized by Plaintiff to obtain such information  
*(Written authorization from Plaintiff must accompany request form unless requester is named in the Plaintiff Confidential Information form)*
3.  Prosecutor  
*Name, address and telephone number of prosecuting agency:*  
\_\_\_\_\_
4.  Law Enforcement Officer  
*Name, address and telephone number of law enforcement agency:*  
\_\_\_\_\_
5.  Victim-Witness Advocate (G.L. c. 258B, § 1)  
*Name, address and telephone number of prosecuting or other criminal justice agency:*  
\_\_\_\_\_
6.  Sexual Assault Counselor (G.L. c. 233, § 20J)  
*Name, address and telephone number of sexual assault victims' program:*  
\_\_\_\_\_
7.  Domestic Violence Counselor (G.L. c. 233, § 20K) *(209A cases only)*  
*Name, address and telephone number of domestic violence victims' program:*  
\_\_\_\_\_
8.  Other, authorized by Court  
*(A copy of the Court's order must accompany request form)*

IF YOUR BASIS OF ACCESS IS (3) THROUGH (7) ABOVE, EXPLAIN HOW THE INFORMATION REQUESTED IS NECESSARY IN THE PERFORMANCE OF YOUR DUTIES (G.L. c. 209A, § 8 or G.L. c. 258E, § 10 allow access only if necessary in the performance of your duties)

DATE

SIGNATURE OF PERSON REQUESTING ACCESS

TITLE

X

**MOTION FOR IMPOUNDMENT & AFFIDAVIT**  
G.L. c. 209A, § 8 or G.L. c. 258E, § 10

DOCKET NO. (for court use only)

Massachusetts Trial Court



Pursuant to G.L. c. 209A, § 8 or G.L. c. 258E, § 10, your residential and workplace addresses:

- will automatically be kept from being disclosed to the public.
- will automatically be kept from being disclosed to the defendant and the defendant's attorney unless those addresses appear in the court Order because you have requested that the defendant be ordered to remain away from your residence or workplace.
- will be available to you, to your attorney, to those you authorize to have access, and to certain persons when access is necessary in the performance of their duties (prosecutors, law enforcement officers, victim-witness advocates, sexual assault counselors and, in G.L. c. 209A cases only, domestic violence counselors).

If you have good reasons why your addresses should not be disclosed to those who would otherwise have access in the course of their duties, you may file this motion with the court requesting a judge to issue an Order of impoundment under Trial Court Uniform Rule VIII on Impoundment Procedure. If you have good reasons, you may also request a judge to impound other information in this case from public inspection. You must explain why there is good cause for a judge to do so. Usually a general preference for privacy is not alone a sufficient reason for a judge to impound court records from public inspection. If you are requesting an Order of impoundment without prior notice to the defendant and any other interested persons, you must explain why immediate and irreparable injury may otherwise result.

1. Pursuant to Trial Court Uniform Rule VIII, I request the Court to order:

- that **my residential, workplace and/or school addresses and telephone numbers** be impounded so that they are not disclosed to those persons who would otherwise have access in the course of their duties.
- that **the following information in the case record** be impounded and unavailable for public inspection:
- \_\_\_\_\_
- \_\_\_\_\_
- I also request the Court to order such impoundment **without prior notice** to the defendant and any other interested persons, since immediate and irreparable injury may otherwise result.

2. This request is based on: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If more space is needed, attach additional pages and check this box:

I declare under penalty of perjury that all statements of fact made above, and in any additional pages attached, are true.

DATE SIGNED

PLAINTIFF'S SIGNATURE

X

**JUDGE'S ORDER ON MOTION FOR IMPOUNDMENT**

- Motion **ALLOWED** ex parte based on a showing of good cause and that immediate and irreparable injury may result before the defendant or any other interested party may be heard in opposition.
- Motion **ALLOWED** based on a showing of good cause, after hearing with notice to the defendant and any other interested party.
- Motion **DENIED**.

DATE SIGNED

JUDGE'S SIGNATURE

X

**AFFIDAVIT FOR FILING  
OUT-OF-STATE PROTECTIVE ORDER**

G.L. c. 209A, § 5A or G.L. c. 258E, § 7

MASSACHUSETTS DOCKET NO.  
(for court use only)

Massachusetts Trial Court



Pursuant to G.L. c. 209A, § 5A or G.L. c. 258E, § 7, I swear or affirm that to the best of my knowledge the order issued by

\_\_\_\_\_ of \_\_\_\_\_,  
(court) (state)

a certified copy of which is submitted with this affidavit, is presently in effect as written.

Signed under the penalties of perjury.

DATE SIGNED

PLAINTIFF'S SIGNATURE

X

*Please submit with this affidavit a certified copy of the other state's court order and the Massachusetts "PLAINTIFF CONFIDENTIAL INFORMATION" and "DEFENDANT INFORMATION PROVIDED BY PLAINTIFF" forms.*

STATUTORY EXCERPTS

**G.L. c. 209A, § 1.** "As used in this chapter the following words shall have the following meanings: . . .

"Protection order issued by another jurisdiction", any injunction or other order issued by a court of another state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or tribal court that is issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person, including temporary and final orders issued by civil and criminal courts filed by or on behalf of a person seeking protection."

**G.L. c.209A, § 5A.** "Any protection order issued by another jurisdiction, as defined in section one, shall be given full faith and credit throughout the commonwealth and enforced as if it were issued in the commonwealth for as long as the order is in effect in the issuing jurisdiction.

"A person entitled to protection under a protection order issued by another jurisdiction may file such order . . . by filing with the court a certified copy of such order which shall be entered into the statewide domestic violence record keeping system established pursuant to the provisions of [St. 1992, c. 188, § 7] and maintained by the office of the commissioner of probation. Such person shall swear under oath in an affidavit, to the best of such person's knowledge, that such order is presently in effect as written. Upon request by a law enforcement agency, the register or clerk of such court shall provide a certified copy of the protection order issued by the other jurisdiction.

"A law enforcement officer may presume the validity of, and enforce . . . a copy of a protection order issued by another jurisdiction which has been provided to the law enforcement officer by any source; provided, however, that the officer is also provided with a statement by the person protected by the order that such order remains in effect. Law enforcement officers may rely on such statement by the person protected by such order."

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**G.L. c. 258E, § 1.** "As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings . . .

"Protection order issued by another jurisdiction", an injunction or other order issued by a court of another state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or a tribal court that is issued for the purpose of preventing violent or threatening acts, abuse or harassment against, or contact or communication with or physical proximity to another person, including temporary and final orders issued by civil and criminal courts filed by or on behalf of a person seeking protection."

**G.L. c. 258E, § 7.** "Any protection order issued by another jurisdiction shall be given full faith and credit throughout the commonwealth and enforced as if it were issued in the commonwealth for as long as the order is in effect in the issuing jurisdiction.

"A person entitled to protection under a protection order issued by another jurisdiction may file such order with the appropriate court by filing with the court a certified copy of such order. Such person shall swear under oath in an affidavit, to the best of such person's knowledge, that such order is presently in effect as written. Upon request by a law enforcement agency, the clerk or clerk-magistrate of such court shall provide a certified copy of the protection order issued by the other jurisdiction.

"A law officer may presume the validity of, and enforce . . . a copy of a protection order issued by another jurisdiction which has been provided to the law officer by any source; provided, however, that the officer is also provided with a statement by the person protected by the order that such order remains in effect. Law officers may rely on such statement by the person protected by such order."