

# HOUSE . . . . . No. 4037

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Text of an amendment (offered by Mr. DeLeo of Winthrop and other members of the House) to the Senate Bill enhancing protection for victims of domestic violence (Senate, No. 1897). April 8, 2014.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen  
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By striking out all after the enacting clause and inserting in place thereof the following:—

1           SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section  
2 116A, as appearing in the 2012 Official Edition, and inserting in place thereof the following  
3 section:—

4           Section 116A. (a) The municipal police training committee shall establish within the  
5 recruit basic training curriculum a course for regional and municipal police training schools for  
6 the training of law enforcement officers in the commonwealth in the handling of domestic  
7 violence and sexual violence complaints and also shall develop guidelines for law enforcement  
8 response to domestic violence and sexual violence. The course of instruction and the guidelines  
9 shall stress enforcement of criminal laws in domestic violence and sexual violence situations,  
10 availability of civil remedies and community resources and protection of the victim. Where  
11 appropriate, the training presenters shall include domestic violence and sexual violence experts  
12 with expertise in the delivery of direct services to victims of domestic violence and sexual  
13 violence, including utilizing the staff of community based domestic violence, rape and sexual  
14 assault service providers and survivors of domestic violence, rape or sexual assault in the  
15 presentation of the training.

16           As used in this section, “law enforcement officer” shall mean any officer of a local police  
17 department, the office of environmental law enforcement, the University of Massachusetts, and  
18 state police. As used in this section, “victim” shall mean any child or adult victim of such abuse,  
19 including elder victims.

20           (b) The course of basic training for law enforcement officers shall include at least 8 hours  
21 of instruction in the following procedures and techniques:

(1) the procedures and responsibilities set forth in chapter 209A relating to response to, and enforcement of, court orders, including violations of orders issued pursuant to said chapter 209A;

(2) the service of said chapter 209A complaints and orders;

(3) verification and enforcement of temporary restraining and vacate orders when the suspect is present or the suspect has fled;

(4) the legal duties imposed law enforcement officers to offer protection and assistance, including guidelines for making felony and misdemeanor arrests, and for mandatory reporting of child and elder abuse cases;

(5) techniques for handling domestic violence and sexual violence incidents that minimize likelihood of injury to the law enforcement officer;

(6) techniques for handling domestic violence and sexual violence incidents that promote the safety of the victim, including the importance of keeping the victim informed as to the whereabouts of the suspect and other such information helpful for victim safety planning;

(7) the nature and extent of domestic violence, including the physiological and psychological effects of the pattern of domestic violence and sexual violence on victims;

(8) the legal rights and the remedies available to victims of domestic violence and sexual violence;

(9) Documentation, report writing and evidence collection, which shall include methods for assessing the degree of risk of homicide involved in situations of domestic violence, including, but not limited to, gathering information from the victim regarding the suspect's past reported and non-reported behavior and dangerousness, such as: (i) whether the suspect has ever used a weapon against the victim or threatened the victim with a weapon; (ii) whether the suspect owns a gun; (iii) whether the suspect's physical violence against the victim has increased in severity or frequency; (iv) whether the suspect has threatened to kill the victim; (v) whether the suspect has ever threatened or attempted suicide; (vi) whether the suspect has used or threatened physical violence against the victim's family, other household members or pets; (vii) whether the suspect uses illegal drugs; (viii) whether the suspect abuses alcohol; and (ix) whether there have been specific instances of strangulation or suffocation of the victim by the suspect.

(10) tenancy and custody issues, including those of married and unmarried couples.

(11) the impact of law enforcement intervention on children in domestic violence and sexual violence situations;

(12) the services and facilities available to victims of abuse, including the victim's compensation programs, emergency shelters and legal advocacy programs;

(13) techniques for increasing cooperation and immediate data sharing among different areas of law enforcement in combating domestic violence and sexual violence;

(c) All law enforcement recruits shall receive the course of basic training for law enforcement officers, established in subsections (a) and (b), as part of their required certification process.

(d) The course of basic training for law enforcement officers shall be taught as part of the crisis intervention and conflict resolution components of the recruit academy training, so that there will not be an increase in the currently required 480 hours of recruit training curriculum.

(e) The course of instruction, the learning and performance objectives, the standards for training and the guidelines shall be developed by the municipal police training committee in consultation with appropriate groups and individuals having an interest and expertise in the fields of domestic violence and sexual violence.

(f) The municipal police training committee shall periodically include within its in-service training curriculum a course of instruction on handling domestic violence complaints consistent with the provisions of paragraphs (1) through (13) of subsection (b).

SECTION 2. Section 167 of said chapter 6is hereby amended by inserting after the word “non-convictions”, in line 5 , as so appearing, the following words:- , previous and pending hearings conducted pursuant to section 58A of chapter 276, including requests of such hearings, transfers by the court, disposition of such requests, findings and orders, regardless of the determination.

SECTION 3. Said section 167 of said chapter 6is hereby further amended by inserting after the word “proceedings”, in line 23, as so appearing, the following words:- , previous and pending hearings conducted pursuant to section 58A of chapter 276, including requests of such hearings, transfers by the court, disposition of such requests, findings and orders, regardless of the determination.

SECTION 4. Chapter 6A of the General Laws is hereby amended by inserting after section 18M,inserted by section 18 of chapter 38 of the acts of 2013, the following section:-

Section 18N. (a) As used in this subsection, the following words shall have the following meanings:-

“Domestic violence”, the abuse of a family or household member, as such terms are defined in section 1 of chapter 209A.

“Fatality”, any death resulting from an incident of domestic violence or attempted domestic violence, including the death of an individual who was not a family or household member of the perpetrator.

90 “Local review team”, a local domestic violence fatality review team established pursuant  
91 to subsection (c).

92 “State review team”, the state domestic violence fatality review team established pursuant  
93 to subsection (b).

94 “Team”, either the local review team or the state review team.

95 (b) There shall be a state domestic violence fatality review team within the executive  
96 office of public safety and security. Members of the state review team shall be subject to  
97 criminal offender record checks to be conducted by the colonel of the state police. All members  
98 shall serve without compensation for their duties associated with membership on the state review  
99 team. All members shall be immune from any liability resulting from the execution of their  
100 duties.

101 The state review team shall consist of the following 9 members:- the secretary of public  
102 safety and security or a designee employed by the executive office of public safety, who shall  
103 serve as chair; the attorney general or a designee employed by the office of the attorney general;  
104 the chief medical examiner or a designee employed by the office of the chief medical examiner;  
105 a member selected by the Massachusetts District Attorneys Association; the colonel of the state  
106 police or a designee employed by the department of state police; the commissioner of probation  
107 or a designee employed by the office of probation; 2 justices of the trial court, 1 of whom shall  
108 be the chief justice of the trial court or a designee, and the other of whom shall be selected by the  
109 chief justice; and a member selected by the Massachusetts office of victim assistance, who shall  
110 be employed by the office.

111 The purpose of the state team shall be to decrease the incidence of preventable domestic  
112 violence fatalities by: (i) developing an understanding of the causes and incidence of domestic  
113 violence fatalities and the circumstances surrounding them; and (ii) advising the governor and  
114 the general court by recommending changes in law, policy and practice designed to prevent  
115 domestic violence fatalities.

116 To achieve its purpose, the state review team shall:

117 (1) develop model investigative and data collection protocols for local review teams;

118 (2) annually review incidents of fatalities within the commonwealth and assign at  
119 least 3 fatalities, selected at random, to a local review team for investigation and report;  
120 provided, that a fatality may be assigned only upon the majority vote of the state review team,  
121 and only in the event that any criminal proceeding relative to the fatality is complete, with all  
122 appeals exhausted;

123 (3) provide information to local review teams, law enforcement agencies and  
124 domestic violence service providers for the purpose of protecting victims of domestic violence;

(4) provide training and written materials to local review teams to assist them in carrying out their duties;

(5) review reports from local review teams;

(6) analyze community, public and private agency involvement with victims of domestic violence and their families prior to and subsequent to fatalities;

(7) develop a protocol for the collection of data regarding fatalities and provide training to local review teams on the protocol, which shall include protocol and training on the issues of confidentiality of records, victims' identities, and any personally identifying data;

(8) develop and implement rules and procedures necessary for its own operation and the operation of local review teams, which shall include the use of confidentiality agreements for both the state and local review teams; and

(9) provide the governor and the general court with annual written reports, subject to any applicable confidentiality restrictions, which shall include, but not be limited to, the state team's findings and recommendations, and which shall be filed with the clerks of the house of representatives and the senate on or before July 31.

(c) There shall be a local domestic violence fatality review team in each of the 11 districts headed by a district attorney. Members of a local review team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on a local review team. All members shall be immune from any liability resulting from the execution of their duties.

Each local review team shall be chaired by the district attorney of the district, and shall be comprised of at least the following members, who shall be appointed by the district attorney and who shall reside or work within the district: a medical examiner or pathologist; a chief of police; a probation officer; a member with experience providing non-profit legal services to victims of domestic violence; a member with experience in the delivery of direct services to victims of domestic violence; and any other person with expertise or information relevant to an individual case who may attend meetings on an ad hoc basis, including, but not limited to, local or state law enforcement officers, local providers of social services, providers of community based domestic violence, rape, and sexual assault shelter and support services, hospital representatives, medical specialists or subspecialists, teachers, family or friends of a victim, and persons recommended by the state review team.

The purpose of each local review team shall be to decrease the incidence of preventable domestic violence fatalities by: (i) coordinating the collection of information on fatalities assigned to it for review; (ii) promoting cooperation and coordination between agencies responding to fatalities and providing services to victims or victims' family members; (iii)

developing an understanding of the causes and incidence of domestic violence fatalities within its area; and (iv) advising the state review team on changes in law, policy or practice which may affect domestic violence fatalities.

To achieve its purpose, each local team shall, subject to assignment by the state review team:

(1) review, establish and implement model protocols from the state review team;

(2) execute a confidentiality agreement;

(3) review individual fatalities in accordance with the established protocol;

(4) meet periodically, but at least 2 times per calendar year, to review the status of assigned cases and recommend methods of improving coordination of services between agencies and service providers in its area;

(5) collect, maintain and provide confidential data as required by the state review team; and

(6) provide law enforcement or other agencies with information for the purposes of the protection of victims of domestic violence.

(d) At the request of the local district attorney, the local review team shall be immediately provided with:

(1) information and records relevant to the cause of the fatality or any party involved with the fatality maintained by providers of medical or other care, treatment or services, including dental and mental health care;

(2) information and records relevant to the cause of the fatality or any party involved with the fatality maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, all incident reports, parole and probation information records, and law enforcement data post-disposition, provided that certain law enforcement records may be exempted by the local district attorney;

(3) information and records of any provider of social services, including the department of children and families and non-profit agencies, related to the victim or victim's family or any party involved with the fatality that the local team deems relevant to the review; and

(4) demographic information relevant to the victim and the victim's immediate family or any party involved with the fatality, including, but not limited to, address, age, race, gender and economic status.

191 The district attorney may enforce this subsection by seeking an order of the superior  
192 court.

193 (e) Any privilege or restriction on disclosure established pursuant to chapter 66A, section  
194 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapter 112, chapter 123 or  
195 sections 20B, 20J, 20K or 20M of chapter 233 or any other law relating to confidential  
196 communications which would otherwise be held by the victim of a fatality or protect records and  
197 information directly related to such victim shall not prohibit the disclosure of such records or  
198 information, as it directly relates to that victim, to the chair of the state review team or a local  
199 review team. Any privilege or restriction on disclosure pursuant to the aforementioned statutes,  
200 or any other law relating to confidential communications not directly related to the victim of a  
201 fatality shall remain in effect; provided, however, that such privilege or restriction may be  
202 waived, in writing, by the person holding it, for the limited purposes of disclosure to the state  
203 review team or a local review team. Any information considered confidential pursuant to the  
204 aforementioned statutes received by the chair of the state review team or a local review team  
205 may be submitted for a team's review upon the determination of that team's chair that the review  
206 of the information is necessary. The chair shall ensure that no information submitted for a team's  
207 review is disseminated to parties outside the team. Under no circumstances shall any member of  
208 a team violate the confidentiality provisions set forth in the aforementioned statutes.

209 Except as necessary to carry out a team's purpose and duties, members of a team and  
210 persons attending a team meeting may not disclose any information relating to the team's  
211 business.

212 Team meetings shall be closed to the public. Information and records acquired by a team  
213 pursuant to this section shall be confidential, shall not be considered public records, as defined in  
214 clause Twenty-sixth of section 7 of chapter 4, shall be exempt from disclosure pursuant to  
215 chapter 66, and may only be disclosed as necessary to carry out a team's duties and purposes. All  
216 such records shall be maintained by the chair of the team.

217 Statistical compilations of data which do not contain any information that would permit  
218 the identification of any person may be disclosed to the public.

219 (f) Members of a team, persons attending a team meeting and persons who present  
220 information to a team may not be questioned in any civil or criminal proceeding regarding  
221 information presented in or opinions formed as a result of a team meeting.

222 (g) Information, documents and records of a team shall not be subject to subpoena,  
223 discovery or introduction into evidence in any civil or criminal proceeding; provided, however,  
224 that information, documents and records otherwise available from any other source shall not be  
225 immune from subpoena, discovery or introduction into evidence through these sources solely  
226 because they were presented during proceedings of a team or are maintained by a team.

SECTION 5. Chapter 12 of the General Laws is hereby amended by adding the following section:-

Section 33. The Massachusetts District Attorneys Association shall provide training on the issue of domestic violence and sexual violence in the commonwealth, at least once biannually, to all district attorneys and assistant district attorneys. Such training shall include, but not be limited to, the dissemination of information concerning:

(1) misdemeanor and felony offenses in which domestic violence and sexual violence are often involved;

(2) the civil rights and remedies available to victims of domestic violence and sexual violence;

(3) methods for assessing the degree of risk of homicide involved in situations of domestic violence, including, but not limited to, gathering information from the victim regarding the suspect's past reported and non-reported behavior and dangerousness, such as : (i) whether the suspect has ever used a weapon against the victim or threatened the victim with a weapon, (ii) whether the suspect owns a gun; (iii) whether the suspect's physical violence against the victim has increased in severity or frequency; (iv) whether the suspect has threatened to kill the victim; (v) whether the suspect has ever threatened or attempted suicide; (vi) whether the suspect has used or threatened physical violence against the victim's family, other household members, or pets; (vii) whether the suspect uses illegal drugs; (viii) whether the suspect abuses alcohol; and (ix) whether there have been specific instances of strangulation or suffocation of the victim by the suspect;

(4) law enforcement techniques, information sharing, and methods of promoting cooperation among different areas of law enforcement in combating domestic violence and sexual violence, including the importance of keeping victims informed as to the whereabouts of suspected abusers and other such information helpful for victim safety planning;

(5) the physiological and psychological effects of the pattern of domestic violence and sexual violence on its victims, including children who witness such abuse;

(6) the underlying psychological and sociological causes of domestic violence and sexual violence and the availability of batterer's intervention programs;

(7) the availability of community based domestic violence, rape, and sexual assault shelter and support services within the commonwealth, including, to the extent practicable, specific shelter and support services available in a district attorney's district; and

(8) techniques for increasing cooperation and immediate data sharing among different areas of law enforcement and the court system in combating domestic violence and sexual violence.



The Massachusetts District Attorneys Association may appoint such expert, clerical and other staff members as the operation of the training program may require. Where appropriate, the training presenters shall include domestic violence and sexual violence experts with expertise in the delivery of direct services to victims of domestic violence and sexual violence, including utilizing community based domestic violence, rape and sexual assault service providers, and survivors of domestic violence, rape or sexual assault in the presentation of the training.

SECTION 6. Chapter 41 of the General Laws is hereby amended by striking out section 97D, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 97D. All reports of rape and sexual assault or attempts to commit such offenses, all reports of abuse perpetrated by family or household members, as defined in section 1 of chapter 209A and all communications between police officers and victims of such offenses or abuse shall not be public reports and shall be maintained by the police departments in a manner that shall assure their confidentiality; provided, however, that all such reports shall be accessible at all reasonable times, upon written request, to the victim and victim's attorney, to others specifically authorized by the victim to obtain such information and to prosecutors, victim-witness advocates as defined in section 1 of chapter 258B, domestic violence victims' counselors as defined in section 20K of chapter 233, sexual assault counselors as defined in section 20J of chapter 233, if such access is necessary in the performance of their duties; and provided further, that all such reports shall be accessible at all reasonable times, upon written, telephonic, facsimile, or electronic mail request to law enforcement officers, district attorneys or assistant district attorneys, and all persons authorized to admit persons to bail pursuant to section 57 of chapter 276. Communications between police officers and victims of said offenses and abuse may also be shared with the forgoing named persons if such access is necessary in the performance of their duties. Whoever violates any provision of this section shall be punished by imprisonment for not more than 1 year or by a fine of not more than \$1,000, or both such fine and imprisonment.

SECTION 7. Said chapter 41 is hereby further amended by striking out section 98F, as so appearing, and inserting in place thereof the following section:-

Section 98F. Each police department and each college or university to which officers have been appointed pursuant to the provisions of section 63 of chapter 22C shall make, keep and maintain a daily log, written in a form that can be easily understood, recording, in chronological order, all responses to valid complaints received, crimes reported, the names, addresses of persons arrested and the charges against such persons arrested. All entries in said daily logs shall, unless otherwise provided in law, be public records available without charge to the public during regular business hours and at all other reasonable times; provided, however, that any entry in a log which pertains to a handicapped individual who is physically or mentally incapacitated to the degree that said person is confined to a wheelchair or is bedridden or

requires the use of a device designed to provide said person with mobility, any information concerning responses to reports of domestic violence, rape or sexual assault, or any entry concerning the arrest of a person for assault, assault and battery, or violation of a protective order where the victim is a family or household member, as defined in section 1 of chapter 209A, shall be kept in a separate log and shall not be a public record nor shall such entry be disclosed to the public, or any individual not specified in section 97D.

SECTION 8. Chapter 112 of the General Laws is hereby amended by adding the following section:-

Section 264. The board of registration in medicine, the board of registration in nursing, the board of registration of physician assistants, the board of administration of nursing home administrators, the board of registration of social workers, the board of registration of psychologists and the board of registration of allied mental health and human services professions shall develop and administer standards for licensure, registration or certification pursuant to this chapter, as applicable, and any renewal thereof, that require training and education on the issue of domestic violence and sexual violence, including, but not limited to, the common physiological and psychological symptoms of domestic violence and sexual violence, the physiological and psychological effects of domestic violence and sexual violence on victims, and the availability of community-based domestic violence, rape and sexual assault shelter and support services within the commonwealth. Each board may work with community-based domestic violence, rape and sexual assault service providers in order to develop the standards required by this section. Each board shall: (i) promulgate rules and regulations establishing the standards required by this section; and (ii) identify programs or courses of study which meet these standards and the rules or regulations so promulgated. Each board shall provide a list of the identified programs or courses of study to an applicant for licensure, registration or certification, or renewal thereof.

SECTION 9. Chapter 149 of the General Laws is hereby amended by inserting after section 52D the following new section:-

Section 52E. (a) For purposes of this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:

“Abuse”, (i) attempting to cause or causing physical harm; (ii) placing another in fear of imminent serious physical harm; (iii) causing another to engage involuntarily in sexual relations by force, threat or duress or engaging or threatening to engage in sexual activity with a dependent child; (iv) engaging in mental abuse, which includes threats, intimidation or acts designed to induce terror; or (v) depriving another of medical care, housing, food or other necessities of life.

“Abusive behavior”, (i) any behavior constituting domestic violence; (ii) stalking in violation of section 43 of chapter 265; (iii) sexual assault, which shall include a violation of

sections 13B, 13B½, 13B¾, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24, 24B, 26D, 50 or 51 of said chapter 265 or section 3 or 35A of chapter 272; and (iv) kidnapping in violation of the third paragraph of section 26 of chapter 265.

“Domestic violence”, abuse against an employee or the employee’s family member by: (i) a current or former spouse of the employee or the employee’s family member; (ii) a person with whom the employee or the employee’s family member shares a child in common; (iii) a person who is cohabitating with or has cohabitated with the employee or the employee’s family member; (iv) a person who is related by blood or marriage to the employee; or (v) a person with whom the employee or employee’s family member has or had a dating or engagement relationship.

“Family member”, (i) persons who are married to one another; (ii) persons in a substantive dating or engagement relationship and who reside together; (iii) persons having a child in common regardless of whether they have ever married or resided together; (iv) a parent, step-parent, child, step-child, sibling, grandparent or grandchild; or (v) persons in a guardianship relationship.

(b) An employer shall permit an employee to take up to 15 days of leave from work in any 12 month period if:

(i) the employee, or a family member of the employee, is a victim of abusive behavior;

(ii) the employee is using the leave from work to: seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from a court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; and

(iii) the employee is not the perpetrator of the abusive behavior against such employee’s family member.

The employer shall have sole discretion to determine whether any leave taken pursuant to this section shall be paid or unpaid.

(c) This section shall apply to employers who employ 50 or more employees. As used in this subsection, “employees” shall mean individuals who perform services for and under the control and direction of an employer for wages or other remuneration.

(d) Except in cases of imminent danger to the health or safety of an employee, an employee seeking leave from work pursuant to this section shall provide appropriate advance notice of the leave to the employer as required by the employer's leave policy.

371 If there is a threat of imminent danger to the health or safety of an employee or the  
372 employee's family member, the employee shall not be required to provide advance notice of  
373 leave; provided, however, that the employee shall notify the employer within 3 workdays that the  
374 leave was taken or is being taken pursuant to this section. Such notification may be  
375 communicated to the employer by the employee, a family member of the employee or the  
376 employee's counselor, social worker, health care worker, member of the clergy, shelter worker,  
377 legal advocate or other professional who has assisted the employee in addressing the effects of  
378 the abusive behavior on the employee or the employee's family member.

379 If an unscheduled absence occurs, an employer shall not take any negative action against  
380 the employee if the employee, within 30 days from the unauthorized absence or within 30 days  
381 from the last unauthorized absence in the instance of consecutive days of unauthorized absences,  
382 provides any of the documentation described in paragraphs (1) to (6), inclusive, of subsection  
383 (e).

384 (e) An employer may require an employee to provide documentation evidencing that the  
385 employee or employee's family member has been a victim of abusive behavior and that the leave  
386 taken is consistent with the conditions of clauses (i) to (iii), inclusive, of subsection (b);  
387 provided, however, that an employer shall not require an employee to show evidence of an arrest,  
388 conviction or other law enforcement documentation for such abusive behavior. An employee  
389 shall provide such documentation to the employer within a reasonable period after the employer  
390 requests documentation relative to the employee's absence. An employee shall satisfy this  
391 documentation requirement by providing any 1 of the following documents to the employer:

392 (1) a document under the letterhead of the court, provider or public agency which  
393 the employee attended for the purposes of acquiring assistance as it relates to the abusive  
394 behavior against the employee or the employee's family member;

395 (2) a police report or statement of a victim or witness provided to police,  
396 including a police incident report, documenting the abusive behavior complained of by the  
397 employee or the employee's family member;

398 (3) documentation that the perpetrator of the abusive behavior against the  
399 employee or family member of the employee has: (i) admitted to sufficient facts to support a  
400 finding of guilt of abusive behavior; or (ii) been convicted of, or adjudicated a juvenile  
401 delinquent by reason of any offense constituting abusive behavior and which is related to the  
402 abusive behavior that necessitated the leave pursuant to this section;

403 (4) medical documentation of treatment as a result of the abusive behavior  
404 complained of by the employee or employee's family member.;

405 (5) an affidavit, signed under the penalties of perjury, provided by a counselor,  
406 social worker, health care worker, member of the clergy, shelter worker, legal advocate or other

professional who has assisted the employee or the employee's family member in addressing the effects of the abusive behavior; or

(6) an affidavit, signed under the penalties of perjury, from the employee attesting that the employee has been the victim of abusive behavior or is the family member of a victim of abusive behavior.

Any documentation provided to an employer pursuant to this section may be maintained by the employer in the employee's employment record but only for as long as required for the employer to make a determination as to whether the employee is eligible for leave pursuant to this section.

(f) All information that is not a public record related to the employee's leave pursuant to this section shall be kept confidential by the employer and shall not be disclosed, except to the extent that disclosure is:

(i) requested or consented to, in writing, by the employee;

(ii) ordered to be released by a court of competent jurisdiction;

(iii) otherwise required by applicable federal or state law;

(iv) related to investigations authorized by law enforcement, including, but not limited to, an investigation by the attorney general; or

(v) necessary to protect the safety of the employee or others employed at the workplace.

(g) An employee seeking leave pursuant to this section shall exhaust all annual or vacation leave, personal leave and sick leave available to the employee, prior to requesting or taking leave pursuant to this section, unless the employer waives this requirement.

(h) No employer shall coerce, interfere with, restrain or deny the exercise of, or any attempt to exercise, any rights provided in this section or make leave requested or taken hereunder contingent upon whether or not the victim maintains contact with the alleged abuser.

(i) No employer shall discharge or in any other manner discriminate against an employee for exercising the employee's rights pursuant to this section. The taking of leave pursuant to this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave taken pursuant to this section commenced. Upon the employee's return from such leave, the employee shall be entitled to restoration to the employee's original job or to an equivalent position.

(j) The attorney general shall enforce this section and may seek injunctive relief or other equitable relief to enforce this section.

(k) Employers with 50 or more employees shall notify each employee of the rights and responsibilities provided by this section including those related to notification requirements and confidentiality. As used in this subsection, “employees” shall mean individuals who perform services for and under the control and direction of an employer for wages or other remuneration.

(l) This section shall not be construed to exempt an employer from complying with chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the rights of any employee under said chapter 258B, said section 14B of said chapter 268 or any other general or special law.

(m) Any benefit received from this section shall not be considered relevant in any criminal or civil proceeding as it relates to the alleged abuse unless, after a hearing, a justice of the district, superior or probate court determines that such benefit is relevant to the allegations.

SECTION 10. Section 150 of said chapter 149, as appearing in the 2012 Official Edition, is hereby amended by inserting after the figure “33E”, in line 20, the following figure:- , 52E.

SECTION 11. Section 3 of chapter 209A of the General Laws, as so appearing, is hereby amended by striking out, in line 149, the word “except” and inserting in place thereof the following:- including.

SECTION 12. Said section 3 of said chapter 209A, as so appearing, is hereby further amended by inserting after the word “support”, in line 149, the following:-

; provided, however, that upon issuing an order for custody or support, the superior, district or Boston municipal court shall provide a copy of the order to the probate and family court department of the trial court that issued the prior or pending custody or support order immediately; provided further, that such order for custody or support shall be for a fixed period of time not to exceed 30 days; and provided further, that such order may be superseded by a subsequent custody or support order issued by the probate and family court department, which shall retain final jurisdiction over any custody or support order.

SECTION 13. The second paragraph of section 7 of said chapter 209A, as so appearing, is hereby amended by inserting, after the first sentence the following sentence:- Law enforcement agencies shall establish adequate procedures to ensure that, when effecting service upon a defendant pursuant to this paragraph, a law enforcement officer shall, to the extent practicable: (i) fully inform the defendant of the contents of the order and the available penalties for any violation of an order or terms thereof, and (ii) provide the defendant with informational resources, including, but not limited to, a list of certified batterer intervention programs, and substance abuse counseling, alcohol abuse counseling, and financial counseling programs located within or near the court’s jurisdiction.

SECTION 14. Said section 7 of said chapter 209A, as so appearing, is hereby further amended by inserting after the word “order”, in line 50, the following words:- , or as a condition of a continuance without a finding.

SECTION 15. Subsection (a) of section 3 of chapter 209C of the General Laws, as so appearing, is hereby amended by adding the following sentence:- No court shall make an order providing visitation rights to a parent who was convicted of rape pursuant to sections 22 to 23B, inclusive, of chapter 265 or section 3, 4, or 17 of chapter 272, and is seeking to obtain visitation with the child who was conceived during the commission of that rape, unless the judge determines that such child is of suitable age to signify the child’s assent and that assent is in the best interest of the child; provided, however, that a court may make an order providing visitation rights to a parent convicted of rape pursuant to section 23 of said chapter 265, if visitation is in the best interest of the child and either (i) the other parent of the child conceived during the commission of that rape has reached the age of 18, and said parent consents to such visitation, or (ii) the judge makes an independent determination that visitation is in the best interest of the child.

SECTION 16. The first paragraph of subsection (e) of section 10 of said chapter 209C, as so appearing, is hereby amended by adding the following sentence:- For the purposes of this section, if the child was conceived during the commission of a rape and the parent was convicted of said rape pursuant to sections 22 to 23B, inclusive, of chapter 265 or section 3, 4 or 17 of chapter 272, said conviction shall be conclusive evidence of a serious incident of abuse by the convicted parent.

SECTION 17. Chapter 211B of the General Laws is hereby amended by inserting after section 9A the following section:-

Section 9B. The chief justice of the trial court department shall provide training on the issue of domestic violence and sexual violence in the commonwealth, at least once biannually, to all appropriate court personnel throughout the commonwealth, including but not limited to judges, clerks of court, probation officers, court officers, security officers and guardians ad litem. Such training shall include, but not be limited to, the dissemination of information concerning:

(1) misdemeanor and felony offenses in which domestic violence and sexual violence are often involved;

(2) the civil rights and remedies available to victims of domestic violence and sexual violence;

(3) methods for assessing the degree of risk of homicide involved in situations of domestic violence, including, but not limited to, gathering information from the victim regarding the suspect’s past reported and non-reported behavior and dangerousness, such as : (i) whether the suspect has ever used a weapon against the victim or threatened the victim with a weapon,

(ii) whether the suspect owns a gun; (iii) whether the suspect's physical violence against the victim has increased in severity or frequency; (iv) whether the suspect has threatened to kill the victim; (v) whether the suspect has ever threatened or attempted suicide; (vi) whether the suspect has used or threatened physical violence against the victim's family, other household members, or pets; (vii) whether the suspect uses illegal drugs; (viii) whether the suspect abuses alcohol; and (ix) whether there have been specific instances of strangulation or suffocation of the victim by the suspect;

(4) law enforcement techniques, information sharing, and methods of promoting cooperation among the various court departments in combating domestic violence and sexual violence, including the importance of keeping victims informed as to the whereabouts of suspected abusers and other such information helpful for victim safety planning;

(5) the physiological and psychological effects of the pattern of domestic violence and sexual violence on its victims, including children who witness such abuse;

(6) the underlying psychological and sociological causes of domestic violence and sexual violence and the availability of batterer's intervention programs;

(7) the availability of community based domestic violence, rape, and sexual assault shelter and support services within the commonwealth, including, to the extent practicable, specific shelter and support services available in a court's geographical area; and

(8) techniques for increasing cooperation and immediate data sharing among different areas of law enforcement and the court system in combating domestic violence and sexual violence.

The chief justice of the trial court may appoint such expert, clerical and other staff members as the operation of the training program may require. Where appropriate, the training presenters shall include domestic violence and sexual violence experts with expertise in the delivery of direct services to victims of domestic violence and sexual violence, including utilizing community based domestic violence, rape and sexual assault service providers, and survivors of domestic violence, rape or sexual assault in the presentation of the training.

SECTION 18. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the words "fifteen A and twenty-one A" and inserting in place thereof the following:- 15A, 15D, 21A and 26.

SECTION 19. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the figure "90" and inserting in place thereof the following figure:- 110.



SECTION 20. Said section 8 of said chapter 258B, as so appearing, is hereby further amended by striking out, in line 5, the figure “50” and inserting in place thereof the following figure:- 70.

SECTION 21. Said section 8 of said chapter 258B, as so appearing, is hereby further amended by striking out, in line 8, the figure “45” and inserting in place thereof the following figure:- 65.

SECTION 22. Said section 8 of said chapter 258B, as so appearing, is hereby further amended by inserting after the third sentence the following sentence:- The court shall impose an additional domestic violence prevention and victim assistance assessment of \$50 for any violation of an order issued pursuant to sections 18 or 34B of chapter 208, section 32 of chapter 209, sections 3, 4 or 5 of 209A, or section 15 of chapter 209C, or a conviction or adjudication for an act which would constitute abuse as defined in section 1 of 209A, or a violation of section 13M of chapter 265, which shall be deposited in the Domestic Violence Prevention and Victim Assistance Fund, established by section 14.

SECTION 23. Said section 8 of said chapter 258B, as so appearing, is hereby further amended by striking out the seventh sentence and inserting in place thereof the following sentence:-

If it is determined by a written finding of fact that an assessment, other than for a civil motor vehicle infraction, imposed by this section would impose a severe financial hardship upon the person against whom the assessment is imposed, the court may structure a payment plan in order to ensure compliance with payment; provided, however, that the court may order a person required to pay a domestic violence prevention and victim assistance assessment to complete at least 8 hours of community service in order to satisfy such assessment, if a structured payment would continue to impose a severe financial hardship.

SECTION 24. Said section 8 of said chapter 258B, as so appearing, is hereby further amended by inserting after the word “assessment”, in line 50, the following words:- and the domestic violence prevention and victim assistance assessment.

SECTION 25. Said chapter 258B is hereby further amended by adding the following section:-

Section 14. (a) There shall be established and placed within the Massachusetts office for victim assistance, under the control of the board, a fund to be known as the Domestic Violence Prevention and Victim Assistance Fund, hereinafter referred to as the fund, to be held by the board separate and apart from other funds, to support innovative practices to prevent domestic violence and provide assistance to victims of domestic violence in the commonwealth. The fund shall be credited any appropriations, bond proceeds, or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to

the direction and control of the board, any pension funds, federal grants or loans, royalties or private investment capital which may properly be applied in furtherance of the objectives of the fund, domestic violence prevention and victim assistance assessments pursuant to section 8 of chapter 258B and any other monies which may be available to the board for the purposes of the fund from any other source or sources. Any revenues, deposits, receipts or funds received shall be deposited in the fund, and shall be available to the board for the purposes described in this section, without further appropriation. The state treasurer shall be the custodian of the fund and shall receive, deposit and invest all monies transmitted to the state treasurer pursuant to this section in accordance with sections 34, 34A and 38 of chapter 29 in such a manner as to secure the highest rate of return available consistent with the safety of the fund, and shall credit interest and earnings on the trust fund corpus to the trust fund; provided, that all amounts on deposit shall be available for immediate use. At the request of the board, the state treasurer shall transfer funds to the board for the administration of any grant pursuant to this section.

(b) All available monies in the fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(c) The fund shall be held and applied by the board to provide grants designed to support innovative practices to prevent domestic violence and provide assistance to victims of domestic violence in the commonwealth. Such innovative practices shall include, but are not limited to: (i) community-based domestic violence prevention and assistance programs and service providers; (ii) multi-disciplinary teams addressing victims of domestic violence at high risk of homicide or fatality; and (iii) other programs and service providers that support victims of domestic violence.

The board shall develop, in conjunction with Jane Doe, Inc., and establish guidelines for applications for grants from the fund no later than October 1, 2014; provided, that an application must demonstrate the way in which the applicant's practice or program will result in the improvement of services provided to victims of domestic violence. The board shall determine the eligibility of applicants for grants from the fund, and the level of benefits provided to successful applicants. A maximum of 6 grantees may be selected to receive grants from the fund. The board shall structure the payments to grantees to ensure that no expenditure from or commitment of the assets of the fund shall result in a negative amount within the fund.

(d) On or before January 1, 2015, the board shall submit a report to the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means, and to the executive office for administration and finance. The report shall provide, at a minimum: (i) the guidelines for applications for grants from the fund; (ii) a list of all applicants for grants from the fund; and (iii) a set of clearly-defined goals and benchmarks to be used to evaluate grant recipients.

(e) On or before March 1, 2017, the executive director shall submit a report to the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means, and to the executive office for administration and finance. The report shall provide, at a minimum: (i) detailed evaluations of the performance of grant recipients; (ii) detailed information on grant recipients considered to be most successful; (iii) the potential for the future development and implementation of successful grant recipients' practices or programs; and (iv) recommendations as to how any monies remaining in the fund should be spent.

SECTION 26. Section 14 of said chapter 258B is hereby repealed,

SECTION 27. Section 13K of chapter 265 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after subsection (c) the following new subsection:-

(c½) Whoever commits an assault and battery upon a family or household member, as defined in section 1 of chapter 209A, except that the determination to be made pursuant to clause (e) of said section 1 of said chapter 209A shall be made by the trier of fact, who is an elder or person with disability shall, in addition to any other penalty authorized by this section, be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2½ years or by a fine of not more than \$5,000 or by both such fine and imprisonment.

SECTION 28. Said chapter 265 is hereby further amended by striking out section 13M, as so appearing, and inserting in place thereof the following section:-

Section 13M. (a) Whoever commits an assault or assault and battery on a family or household member, as defined in section 13O, shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine of not more than \$5,000 or both.

(b) Whoever is convicted of committing an assault or assault and battery on a family or household member, after having previously been convicted of, granted a continuance without a finding for, or otherwise having pleaded guilty to or admitted to a finding of sufficient facts of one of the following offenses, or of a like offense in federal court or the court of any state: (1) an assault or assault and battery on a family or household member; (2) (2) an offense that has as an element the possession, use, or threatened use of a deadly weapon; (3) a sex offense, as defined in section 178C of chapter 6, or (4) a violation of section 7 of chapter 209A, shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2½ years, or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(c) For any violation of this section, or as a condition of a continuance without a finding, 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. Should a defendant not under parole supervision fail to complete a certified batterer's intervention program ordered under this subsection within 12 months of disposition or release from confinement, or within such other time as set by the court, the defendant's original term of imprisonment shall be increased by imprisonment in the house of correction for 60 days.

SECTION 29. Said chapter 265 is hereby further amended by inserting after section 13M the following 2 new sections:-

Section 13N. (a) Whoever commits, or attempts to commit an assault or an assault and battery on a family or household member, as defined in section 13O, within 500 feet of the real property comprising a trial court of the commonwealth, as defined in section 1 of chapter 211B, shall be punished imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2½ years, or by a fine of not more than \$1,000, or or by both such fine and imprisonment.

(b) Whoever commits, or attempts to commit an assault or an assault and battery on a family or household member, as defined in section 13O, with the intent to intimidate, deter or prevent such family or household member from obtaining access to a trial court of the commonwealth, as defined in section 1 of chapter 211B, shall be punished by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2½ years, or by a fine of not less than \$1,000 nor more than \$5,000, or by both such fine and imprisonment.

(c) For any violation of this section, or as a condition of a continuance without a finding, 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. Should a defendant not under parole supervision fail to complete a certified batterer's intervention program ordered under this subsection within 6 months of disposition or release from confinement, or within such other time as set by the court, the defendant's original term of imprisonment shall be increased by imprisonment in the house of correction for 60 days.

Section 13O. For the purposes of sections 13M and 13N the term "Family or household member", shall mean persons who:

(a) are or were married to one another;

(b) have a child in common regardless of whether they have ever married or lived together; or

(c) are or have been in a substantive dating or engagement relationship, which shall be adjudged by the 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.

SECTION 30. Said chapter is hereby further amended by inserting after section 15C the following section:-

Section 15D. (a) For the purposes of this section the following words shall have the following meanings:-

“Strangulation”, the intentional interference of the normal breathing or circulation of blood by applying substantial pressure on the throat or neck of another.

“Suffocation”, the intentional interference of the normal breathing or circulation of blood by blocking the nose or mouth of another.

“Serious bodily injury”, bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death.

(b) Whoever strangles or suffocates another shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2½ years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(c) Whoever: (i) strangles or suffocates another and by such strangulation or suffocation causes serious bodily injury; or (ii) strangles or suffocates another who is pregnant at the time of such strangulation or suffocation, knowing or having reason to know that the person is pregnant; or (iii) is convicted of strangling or suffocating another after having been previously convicted of the crime of strangling or suffocating another under this section, or of a like offense in federal court or the court of any state; or (iv) strangles or suffocates another who he or she knows has an outstanding temporary or permanent vacate, restraining or no contact order or judgment issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C, in effect against him or her at the time the offense was committed, shall be punished by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2½ years, and by a fine of not more than \$10,000.

(d) For any violation of this section, or as a condition of a continuance without a finding, 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. Should a defendant not under parole supervision fail to complete a certified batterer's intervention program ordered under this subsection within 12 months of disposition or release from confinement, or within such other time as set by the court, the defendant's original term of imprisonment shall be increased by imprisonment in the house of correction for 60 days.

SECTION 31. Section 20D of chapter 276 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the word "governor", in line 8, the following words:- ; provided, however, that if a person is arrested for a crime in the commonwealth, any bail by bond or undertaking shall be assessed pursuant to sections 42, 42A, 57, 58 and 58A.

SECTION 32. Section 42 of said chapter 276, as so appearing, is hereby amended by inserting after the word "trial", in line 6, the following words:- ; provided, however, that if a person is arrested for a violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M, 13N or 15D of chapter 265, any bail shall be assessed pursuant sections 42A, 57, 58 and 58A.

SECTION 33. Section 42A of said chapter 276, as so appearing, is hereby amended by inserting after the word "of", in line 7, the following words:- bail or.

SECTION 34. Said section 42A of said chapter 276, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

For any violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M, 13N or 15D of chapter 265, (1) a person arrested shall not be admitted to bail sooner than 6 hours after arrest, except by a judge in open court, and, except where prohibited by section 57, every effort shall be made to assess bail no more than 8 hours after the arrest, and (2) the person authorized to take bail for such violation shall make a written determination as to whether there are conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community on the basis of any information which the court can reasonably obtain, the nature and circumstances of the offense charged, the potential penalty the person faces, the person's family ties, employment record and history of mental illness, the person's reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure

or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the person's record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction. The person authorized to take bail shall have immediate access to all pending and prior police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are conditions of release that will reasonably assure the safety of the alleged victim, any other individual and the community, the person authorized to admit the person to bail shall impose such conditions of release. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are no conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community, the person shall be held and transferred automatically, and without a motion from the commonwealth, for an appearance and hearing pursuant to section 58A at the next sitting of the court; provided, however, that the commonwealth may decline such a hearing and instead proceed under section 58 and request cash bail or under section 58B revocation of release. If, after an evaluation of all the factors set forth in this paragraph, a person is to be admitted to bail, a written determination shall be made as to why admittance is supported and which conditions will reasonably assure the safety of the alleged victim or any other individual or the community. The person shall, prior to admittance, be provided with informational resources related to domestic violence by the person admitting the arrestee to bail, which shall include, but is not limited to, a list of certified batterer intervention programs located within or near the court's jurisdiction. If the defendant is released on bail from the place of detention, a reasonable attempt shall be made to notify the victim of the defendant's release by the arresting police department. If the defendant is released on bail by order of a court, a reasonable attempt shall be made to notify the victim of the defendant's release by the district attorney.

The commonwealth shall be the only party permitted to move for arraignment, within 3 hours of a complaint being signed by a magistrate or the magistrate's designee, for a person charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 of chapter 209C, or a violation of section 13K, 13M, 13N or 15D of chapter 265. SECTION 35. Section 55 of said chapter 276, as so appearing, is hereby amended by inserting after the word "felony", in line 5, the following words:- , or was a violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C or was

a violation of sections 13K,13M, 13N or 15D of chapter 265 or would otherwise constitute abuse as defined in section 1 of said chapter 209A.

SECTION 36. Said chapter 276 is hereby further amended by inserting after section 56 the following section:-

Section 56A. Before a judge of the superior court or district court releases, discharges or admits to bail any person arrested and charged with a crime against the person or property of another, the judicial officer shall inquire into and determine whether, in the exercise of the judicial officer's discretion and based upon the information provided to the court, abuse, as defined in section 1 of chapter 209A, has occurred immediately prior to or in conjunction with the crime for which the person was arrested and charged. If the judge determines that abuse has so occurred, the judge shall make preliminary written findings of fact to that effect. Such preliminary written findings of fact shall be maintained within the statewide domestic violence record keeping system. Such preliminary written findings of fact shall not be considered criminal offender record information or public records and shall not be open for public inspection. Such preliminary written findings of fact shall not be admissible in any investigation or proceeding before a grand jury or court of the commonwealth related to the crime for which the person was brought before the court for release, discharge or discretion that such abuse has not occurred, in which case the preliminary written findings of fact shall be removed from the statewide domestic violence record keeping system. Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

SECTION 37. Section 57 of said chapter 276, as appearing in the 2012 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

For any violation of an order or judgment issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A, section 15 or 20 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K,13M, 13N or 15D of chapter 265, (1) a person arrested shall not be admitted to bail sooner than 6 hours after the time of arrest, except by a judge in open court, and, except where prohibited by section 57, every effort shall be made to assess bail no more than 8 hours after the time of arrest, and (2) a person authorized to take bail pursuant to this section shall make a written determination as to whether there are conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community on the basis of any information which the justice or a clerk or assistant clerk of the district court, a bail commissioner or a master in chancery can reasonably obtain, the nature and circumstances of the offense charged, the potential penalty the person faces, the person's family ties, employment record and history of mental illness, the person's reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the person's record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication



of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3,4, or 5 of chapter 209A or section 15 of chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction. The person authorized to take bail shall have immediate access to all pending and prior police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are conditions of release that will reasonably assure the safety of the alleged victim, any other individual and the community, the person authorized to admit the person to bail shall impose such conditions of release. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are no conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community, the person shall be held and transferred automatically, and without a motion from the commonwealth, for an appearance and hearing pursuant to section 58A at the next sitting of the court; provided, however, that the commonwealth may decline such a hearing and instead proceed under section 58 and request cash bail or under section 58B revocation of release. If, after an evaluation of all the factors set forth in this paragraph, a person is to be admitted to bail, a written determination shall be made as to why admittance is supported and which conditions will reasonably assure the safety of the alleged victim or any other individual or the community. The person shall, prior to admittance, be provided with informational resources related to domestic violence by the person admitting the arrestee to bail, which shall include, but is not limited to, a list of certified batterer intervention programs located within or near the court's jurisdiction. If the defendant is released on bail from the place of detention, a reasonable attempt shall be made to notify the victim of the defendant's release by the arresting police department. If the defendant is released on bail by order of a court, a reasonable attempt shall be made to notify the victim of the defendant's release by the district attorney.

The commonwealth shall be the only party permitted to move for arraignment, within 3 hours of a complaint being signed by a magistrate or the magistrate's designee, for a person charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 of chapter 209C, or a violation of section 13K, 13M, 13N or 15D of chapter 265.

SECTION 38. Section 58 of said chapter 276, so appearing, is hereby amended by inserting after the first paragraph, the following paragraph:-

For any violation of an order or judgment issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A, or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of chapter 209A or a violation of sections 13K, 13M, 13N or 15D of chapter 265, (1) a person arrested shall not be admitted to bail sooner

than 6 hours after the time of arrest, except by a judge in open court, and, except where prohibited by section 57, every effort shall be made to assess bail no more than 8 hours after the time of arrest, and (2) a person authorized to take bail pursuant to this section and section 57 shall make a written determination as to whether there are conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community on the basis of any information which the justice or a clerk or assistant clerk of the district court, a bail commissioner or a master in chancery can reasonably obtain, the nature and circumstances of the offense charged, the potential penalty the person faces, the person's family ties, employment record and history of mental illness, the person's reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the person's record of convictions, if any, any illegal drug distribution or present drug dependency, whether the person is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3,4 or 5 of chapter 209A or section 20 of chapter 209C, whether the person has any history of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation, parole or other release pending completion of sentence for any conviction and whether the person is on release pending sentence or appeal for any conviction. The person authorized to take bail shall have immediate access to all pending and prior police and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic mail request. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are conditions of release that will reasonably assure the safety of the alleged victim, any other individual and the community, the person authorized to admit the person to bail shall impose such conditions of release. If, after an evaluation of all factors set forth in this paragraph, a written determination is made that there are no conditions of release that will reasonably assure the safety of the alleged victim or any other individual or the community, the person shall be held and transferred automatically, and without a motion from the commonwealth, for an appearance and hearing pursuant to section 58A at the next sitting of the court; provided, however, that the commonwealth may decline such a hearing and instead proceed under section 58 and request cash bail or under section 58B revocation of release. If, after an evaluation of all the factors set forth in this paragraph, a person is to be admitted to bail, a written determination shall be made as to why admittance is supported and which conditions will reasonably assure the safety of the alleged victim or any other individual or the community. The person shall, prior to admittance, be provided with informational resources related to domestic violence by the person admitting the arrestee to bail, which shall include, but is not limited to, a list of certified batterer intervention programs located within or near the court's jurisdiction. If the defendant is released on bail from the place of detention, a reasonable attempt shall be made to notify the victim of the defendant's release by the arresting police department. If the defendant is released on bail by order of a court a reasonable attempt shall be made to notify the victim of the defendant release by the district attorney.

913 The commonwealth shall be the only party permitted to move for arraignment, within 3  
914 hours of a complaint being signed by a magistrate or the magistrate's designee, for a person  
915 charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section  
916 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 of chapter 209C, or a violation  
917 of section 13K, 13M, 13N or 15D of chapter 265.

918 SECTION 39. Section 58A of said chapter 276, as so appearing, is hereby amended by  
919 inserting after the figure "(3)", in line 29, the following words:- ; provided, however, a person  
920 arrested and charged with a violation of an order issued pursuant to section 18 or 34B of chapter  
921 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C or  
922 any act that would constitute abuse as defined in section 1 of said chapter 209A, or a violation of  
923 section 13M of chapter 265 shall not be admitted to bail sooner than 6 hours after arrest and  
924 every effort shall be made to assess bail no more than 8 hours after the arrest.

925 SECTION 40. Said section 58A of said chapter 276, as so appearing, is hereby further  
926 amended by striking out, in line 92, the words "ninety days excluding any period of delay as  
927 defined in Massachusetts Rules of Criminal Procedure Rule 36(b)(2)" and inserting in place  
928 thereof the following:- 90 days; provided, that such 90 days shall not include any period of delay  
929 as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. If the  
930 commonwealth moves to reopen a hearing, pursuant to the provisions of subsection (4), wherein  
931 a person was detained pursuant to this subsection following the initial hearing, that person may  
932 be detained up to 90 additional days if a judge finds by clear and convincing evidence that the  
933 new information or change in circumstances presented so warrants the additional detention. A  
934 person detained under this subsection shall not be detained for a period exceeding 180 days.

935 SECTION 41. The second paragraph of subsection (4) of said section 58A of said chapter  
936 276, as so appearing, is hereby amended by inserting after the fifth sentence the following  
937 sentence:- Prior to the summons of an alleged victim, or a member of the alleged victim's family,  
938 to appear as a witness at the hearing, the person shall demonstrate to the court, ex-parte and  
939 under oath, a good faith basis for the person's reasonable belief that the testimony from the  
940 witness will support a conclusion that there are conditions of release that will reasonably assure  
941 the safety of any other person or the community. Such ex-parte motion and hearing shall be  
942 impounded.

943 SECTION 42. Said section 58A of said chapter 276, as so appearing, is hereby further  
944 amended by inserting after the word "hearing", in line 115, the following words:- , and the judge  
945 shall consider hearsay contained in a police report or the statement of an alleged victim or  
946 witness.

947 SECTION 43. The second paragraph of subsection (4) of said section 58A of said chapter  
948 276, as so appearing, is hereby amended by striking out the last sentence and inserting in place  
949 thereof the following sentence:- The hearing may be reopened before or after a determination by

the judge, at any time before trial, upon a motion of the commonwealth or the person detained and a finding by the judge that information exists that was not known at the time of the hearing or that there has been a change in circumstances, and that such information or change in circumstances has a material bearing on the issue of whether there are conditions of release that will reasonably assure the safety of any other person or the community.

SECTION 44. Said section 58A of said chapter 276, as so appearing, is hereby further amended inserting after the word “conviction”, in lines 153 and 154, the following words:- ; provided, however, that if the person is held under arrest for a violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of said chapter 209A or a violation of sections 13K, 13M, 13N or 15D of chapter 265, said justice shall make a written determination as to the considerations required by this subsection.

SECTION 45. Said section 58A of said chapter 276, as so appearing is hereby further amended by adding the following subsection:-

(8) If, after a hearing pursuant to subsection (4), detention pursuant to subsection (3) is ordered or pretrial release subject to conditions under subsection (2) is ordered, then:

(A) the clerk shall immediately notify the probation officer of the order; and

(B) the order of detention pursuant to subsection (3) or order of pretrial release subject to conditions pursuant to subsection (2) shall be recorded in the defendant’s criminal record as compiled by the commissioner of probation pursuant to section 100.

SECTION 46. Section 58B of said chapter 276, as so appearing, is hereby amended by striking out, in line 2, the words “section 58 or section 58A” and inserting in place thereof the following words:- section 42A, 58, or 58A.

SECTION 47. The executive office of public safety and security shall, in consultation with the court administrator, adopt rules and regulations for: (i) the standardization and dissemination to the district attorney, assistant district attorney, defense counsel and presiding justice, of an individual’s criminal and civil court history, which shall include, at a minimum, (1) a record of a dangerousness hearing pursuant to section 58A of chapter 276 of the General Laws, whether or not a dangerousness determination was made; (2) pretrial detention or release conditions as agreed to pursuant to said section 58A of said chapter 276; (3) all temporary or permanent restraining orders and affidavits issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C of the General Laws; (4) any violation of such temporary or permanent restraining orders; (5) a misdemeanor or felony involving abuse, as defined in section 1 of said chapter 209A; (6) any written findings of fact issued pursuant to sections 42A, 56A, 57, 58 and 58A of said chapter 276; (7) any records concerning persons on probation maintained by the commissioner of

probation pursuant to section 100 of said chapter 276, including any out-of-state criminal record; and (8) any other information maintained in and disseminated in accordance with the statewide domestic violence record keeping system maintained by the commissioner of probation; and (ii) updating the collection, storage, access, dissemination, content and use of criminal offender record information to reflect the inclusion of dangerousness hearing information pursuant to subsection (8) of said section 58A of said chapter 276.

SECTION 48. The chief administrator of the trial court department, in conjunction with the commissioner of probation, the Massachusetts office for victim assistance, the colonel of state police, Jane Doe, Inc., and local community-based domestic violence, rape, and sexual assault service providers selected by Jane Doe, Inc., shall develop and implement, subject to appropriation, a program for the dissemination of information on domestic violence and sexual violence prevention services available within each county to: (i) individuals filing a complaint pursuant to sections 3, 4 or 5 of chapter 209A of the General Laws; (ii) parties subject to an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209 of the General Laws, said chapter 209A or section 15 of chapter 209C of the General Laws; (iii) persons held under arrest for an offense set forth in subsection (1) of section 58A chapter 276 of the General Laws, which involves abuse, as defined in section 1 of said chapter 209A; and (iv) any other similarly situated individual accessing a court within that county.

SECTION 49. The department of elementary and secondary education shall develop and produce educational materials on domestic violence, teen dating violence, and healthy relationships, which shall be distributed annually to students in grades 9 to 12, inclusive. Such educational materials shall be utilized as part of the required health curriculum on safe and healthy relationships required by section 1 of chapter 71 of the General Laws.

SECTION 50. School districts or charter schools may provide teen dating violence prevention education as part of the health education program it provides to students in grades five through twelve. Each school district or charter school may establish a curriculum or materials to address this issue, which may be used by school districts. School districts and charter schools may use school personnel or outside consultants for the education.

School districts and charter schools may establish and implement an age-appropriate curriculum to educate students about domestic violence. A domestic violence curriculum may contain components to raise awareness, promote healthy behaviors in relationships, allow students to identify behaviors associated with an abuser. A curriculum may also contain an emphasis on the primary prevention of violence perpetration.

A curriculum may also address the risk factors for perpetration of domestic violence and contain information about behavior that may occur with domestic violence. In addition, it may advise students about the physical and mental injuries that may occur. A curriculum may include

1022 information about how victims may seek assistance or how friends or families of victims may  
1023 assist them.

1024 A school district or charter school may cooperate with other governmental, nonprofit, or  
1025 private entities, to develop a curriculum.

1026 SECTION 51. Any funds remaining in the Domestic Violence Prevention and Victim  
1027 Assistance Fund established pursuant to said section 14 of chapter 258B of the General Laws  
1028 shall be transferred to the General Fund on or before June 30, 2017.

1029 SECTION 52. The department of elementary and secondary education shall develop a  
1030 pilot instructional initiative, to be administered by the Katie Brown Educational Program, Inc.  
1031 The program shall consist of professional development workshops throughout the school year,  
1032 for the purposes of informing and educating those in attendance about the problems and  
1033 challenges of relationship violence in their schools, and use the venue as an opportunity to begin  
1034 to address the issues and teach safe and healthy alternatives to violence in their schools.

1035 SECTION 53. Sections 19 to 25, inclusive, shall take effect on July 1, 2014.

1036 SECTION 54. Section 26 shall take effect on June 30, 2017.

1037 SECTION 55. Sections 1, 5, 8 and 17 shall take effect on January 1, 2015; and by  
1038 striking out

1039 the title and inserting in place thereof the following title: "An Act relative to domestic  
1040 violence".