

**SENATE . . . . . No. 1611**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act to relative to sexual assault and stalking restraining orders..

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

1 SECTION 1. This act may be cited as the Harassment Prevention Orders Act. The  
2 General Laws are hereby amended by inserting after section 46 in chapter 265 the following  
3 section:-

4 Section 47.

5 HARASSMENT PREVENTION ORDERS

6 Section 1. Definitions.

7 In this chapter, the following words shall have the following meanings:

8 "Court", the Superior, District, Boston Municipal, or Juvenile court departments of the  
9 trial court.

10 "Harassment", the occurrence of one or more of the following: (a) willfully and  
11 maliciously engaging in conduct or acts directed at a specific person, which seriously alarms that  
12 person and would cause a reasonable person to suffer emotional distress; or (b) causing another

13 to engage involuntarily in sexual conduct; or (c) causing another to engage involuntarily in  
14 sexual conduct by force, threat, or duress, included but not limited to, incapacitation through  
15 chemical restraint, drugs or intoxication; or (d) engaging in the enticement of a child under the  
16 age of 16 under the provisions of chapter 265 section 26C of the Massachusetts General Laws.

17 “Harassment Prevention Orders”, an order or emergency order granted under this chapter.  
18 “Involuntarily”, a lack of freely given consent.

19 “Law officer”, any officer authorized to serve criminal process.

20 “Petitioner”, any named petitioner for a Harassment Prevention Order or any named  
21 victim of harassment on whose behalf the petition is brought.

22 “Protection order issued by another jurisdiction”, any injunction or other order issued by  
23 a court of another state, territory, or possession of the United States, the commonwealth of  
24 Puerto Rico, or the District of Columbia, or tribal court that is issued for the purpose of  
25 preventing violent or threatening acts or harassment against, or contact or communications with,  
26 or physical proximity to a victim of harassment, including temporary and final orders issued by  
27 civil and criminal courts filed by or on behalf of a person seeking protection.

28 “Sexual Conduct” any intentional or knowing touching or fondling, either  
29 directly or through clothing, of the sex organs, anus or breast, or any part of the body, or any  
30 transfer or transmission of semen upon any part of the clothed or unclothed body, for the purpose  
31 of sexual gratification or arousal; OR any contact, however slight, between the sex organ or anus  
32 of one person by an object, the sex organ, mouth or anus of another person, or any intrusion,  
33 however slight, of any part of the body of one person or object into the sex organ or anus of

34 another, including but not limited to cunnilingus, fellatio or anal penetrations. Evidence of  
35 emission of semen is not required to prove sexual conduct.

36 "Victim", any person who suffers harassment, without the need of a report of the offense  
37 to the police or the issuance of a complaint or indictment.

38 Section 2. Venue.

39 Proceedings under this chapter shall be filed, heard and determined in the Superior,  
40 District, Boston Municipal or Juvenile (if the petitioner or respondent is a juvenile) court  
41 departments of the trial court having venue over where: (1) the petitioner resides; (2) the  
42 respondent resides; or (3) the alleged harassment occurred.

43 Section 3. Persons Protected By This Act.

44 A petition for a Harassment Prevention Order may be filed:

- 45 (1) by any person who is a victim of harassment; or  
46 (2) by a person on behalf of a minor child or an adult who is a victim of harassment  
47 but, because of age, disability, and health cannot file the petition.

48 Section 4. Remedies; Period of Relief.

49 (a) A petitioner may file a petition requesting protection including, but not limited to, the  
50 following orders:

- 51 (1) ordering the respondent to refrain from attempting to cause or causing physical harm  
52 or harassment of the petitioner, whether the petitioner is an adult or minor;

53           (2) ordering the respondent to refrain from contacting the petitioner, either directly or  
54 indirectly, unless authorized by the court, whether the petitioner is an adult or minor;

55           (3) ordering the respondent to stay away from the petitioner, the petitioner's household,  
56 multiple family dwelling and workplace; or

57           (4) ordering the respondent to pay the petitioner monetary compensation for the losses  
58 suffered as a direct result of such harassment. Compensatory loss shall include, but not be  
59 limited to, loss of earnings, out-of-pocket losses for injuries sustained, replacement costs for  
60 locks or personal property removed or destroyed, medical costs, moving expenses, cost for  
61 obtaining an unlisted telephone number and reasonable attorney's fees.

62           (b) Any relief granted by the court shall be for a fixed period of time not to exceed 1  
63 year. Every order shall on its face state the time and date the order is to expire. If the petitioner  
64 appears at the court on or before the close of business on the date the order is to expire, the court  
65 shall determine whether or not to enter a permanent order, or to extend the order for another  
66 period of time reasonably necessary to prevent future harassment or intimidation of the petitioner  
67 by the respondent, or contact between the petitioner and the respondent. When the expiration  
68 date stated on the order is on a weekend day or holiday, or a date when the court is closed to  
69 business, the order shall not expire until the close of business on the next date that the court is  
70 open to business. The petitioner may appear on such next court business day to request that the  
71 order be extended. At a hearing to extend the order for such additional time, the court shall  
72 consider the totality of the circumstances. The fact that harassment or contact between the  
73 parties has not occurred during the pendency of an order shall not, in itself, constitute sufficient

74 ground for denying or failing to extend the order, or allowing an order to expire or be vacated, or  
75 for refusing to issue a new order.

76 (c) The court may modify its order at any subsequent time upon motion by  
77 either party. When the petitioner's address is inaccessible to the respondent, as provided  
78 in section 8, and the respondent has filed a motion to modify the court's order, the court shall be  
79 responsible for notifying the petitioner. In no event shall the court disclose any such confidential  
80 address.

81 (d) A court shall not deny any petition filed under this chapter solely because it was not  
82 filed within a particular time period after the last alleged incident of harassment.

83 Section 5. Commencement of action; filing fees.

84 (a) An action for a Harassment Prevention Order is commenced:

85 (1) independently, by filing a Harassment Prevention Order petition in any court,  
86 and shall not be contingent upon reporting the alleged harassment to a law enforcement  
87 agency nor shall it be contingent upon prosecuting such case criminally; or

88 (2) in conjunction with a delinquency petition or a criminal prosecution  
89 for the same act, by filing a petition for a Harassment Prevention Order under the same  
90 case number as the delinquency petition or criminal prosecution and treated as a civil and  
91 separate matter, to be granted during pre-trial release of a respondent, with any dispositional  
92 order issued under section 58 of chapter 119, or as a condition of release, supervision,  
93 conditional discharge, probation, periodic imprisonment, parole, or mandatory supervised  
94 release, or in conjunction with imprisonment or a bond forfeiture warrant, provided that (i) the

95 violation is alleged in an information, petition, indictment, or delinquency petition on file and  
96 the alleged victim is a person that may be afforded protection under this chapter, and (ii) the  
97 petition, which is filed by the district attorney, names a victim of the alleged crime as a  
98 petitioner.

99 (b) Withdrawal or dismissal of any petition for a Harassment Prevention Order prior to  
100 adjudication shall operate as a dismissal without prejudice.

101 (c) Any action commenced under the provisions of this chapter shall not preclude any  
102 other civil or criminal remedies. Dismissal of the delinquency petition or criminal prosecution  
103 for the same act, or a finding of not guilty, shall not require dismissal of the action for a  
104 Harassment Prevention Order.

105 (d) No filing fee shall be charged by the clerk of the court for the filing of the petition.  
106 Neither the petitioner nor the petitioner's attorney shall be charged for certified copies of any  
107 orders entered by the court, or any copies of the file reasonably required for future court action or  
108 as a result of the loss or destruction of petitioner's copies.

109 Section 6. Form of complaint; promulgation.

110 The chief justices for Administration and Management, in consultation with the chief  
111 justices of the Superior, District, Boston Municipal or Juvenile court departments shall  
112 promulgate a form of petition for use under this chapter which shall be in such form and  
113 language to permit a petitioner to prepare and file such petition pro se.

114 Section 7. Pleading; confidentiality of records.

115 (a) A petition for a Harassment Prevention Order shall be in writing and verified or  
116 accompanied by affidavit and shall allege that the petitioner has been the victim of harassment  
117 and there exists a substantial likelihood of immediate danger of harassment.

118 (b) The records of cases arising out of an action brought under this chapter where the  
119 petitioner or respondent is a minor shall be withheld from public inspection except by order of  
120 the court; provided, that such records shall be open, at all reasonable times, to the inspection of  
121 the minor, said minor's parent, guardian, attorney, and to the petitioner and the petitioner's  
122 attorney, or any of them.

123 (c) The petitioner's cellular telephone number, residential address, residential telephone  
124 number and workplace name, address and telephone number, contained within the court records  
125 of cases arising out of an action brought by a petitioner under this chapter, shall be confidential  
126 and withheld from public inspection at all times, except by order of the court and pursuant to the  
127 provisions of chapter 265 section 24C of the general laws. All confidential portions of the  
128 records shall be accessible at all reasonable times to the petitioner and petitioner's attorney, to  
129 others specifically authorized by the petitioner to obtain such information, and to prosecutors,  
130 victim-witness advocates as defined in section 1 of chapter 258B, sexual assault counselors as  
131 defined in section 20J of chapter 233, and law enforcement officers, if such access is necessary  
132 in the performance of their duties. This paragraph shall apply to any protection order issued by  
133 another jurisdiction that is filed with a court of the commonwealth pursuant to section 14. Such  
134 confidential portions of the court records shall not be deemed to be public records under Clause  
135 Twenty-sixth of section 7 of chapter 4.

136 (d) Upon the filing of a petition under this chapter, the court may enter such temporary  
137 orders as it deems necessary to protect a petitioner from further contact by the respondent. Such  
138 relief shall not be contingent upon reporting the alleged harassment to a law enforcement  
139 agency nor shall it be contingent upon prosecuting such case criminally nor may the court  
140 consider such factors in rendering its decision.

141 (e) In any proceeding to obtain a Harassment Prevention Order, a petitioner must  
142 establish by a preponderance of the evidence that he/she is a victim of harassment and that there  
143 is a substantial likelihood of immediate danger of harassment.

144 (f) If the court finds reasonable grounds to believe that the petitioner is the victim of  
145 harassment and there is a substantial likelihood of immediate danger of harassment, the court  
146 may enter such temporary relief orders without notice as it deems necessary to protect the  
147 petitioner from harassment and shall immediately thereafter notify the respondent that the  
148 temporary orders have been issued. The court shall give the respondent an opportunity to be  
149 heard on the question of continuing the temporary order and of granting other relief as requested  
150 by the petitioner no later than 10 court business days after such orders are entered. It is  
151 recommended that all such hearings be conducted at sidebar.

152 Notice shall be made by the appropriate law enforcement agency as provided in section  
153 9.

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

156 Section 8. Hearing.



157           When a petitioner seeks relief under sections 3, 4, 7, or 10, it is recommended that any  
158 such hearing be heard at sidebar in order to protect the petitioner's privacy. The rules of  
159 evidence do not apply. If the petitioner is a minor, or the application is filed on behalf of a  
160 minor, it is recommended that the hearing be closed to the public as in juvenile proceedings.

161           Section 9. Harassment Prevention Order; record search; service of order; enforcement;  
162 violations.

163           An order under this statute shall also be filed in the Statewide Domestic Violence Record  
164 Keeping System. When considering a petition filed under this chapter, a judge shall cause a  
165 search to be made of the records contained within the Statewide Domestic Violence Record  
166 Keeping System maintained by the office of the commissioner of probation and shall review the  
167 resulting data to determine whether the named respondent has a civil or criminal record  
168 involving domestic or other violence. Upon receipt of information that an outstanding warrant  
169 exists against the named respondent, a judge shall order that the appropriate law enforcement  
170 officials be notified and shall order that any information regarding the respondent's most recent  
171 whereabouts shall be forwarded to such officials. In all instances where an outstanding warrant  
172 exists, a judge shall make a finding, based upon all of the circumstances, as to whether a  
173 substantial likelihood of immediate danger of harassment to the petitioner exists. In all instances  
174 where a substantial likelihood of immediate danger of harassment is found to exist, the judge  
175 shall notify the appropriate law enforcement officials of such finding and such officials shall take  
176 all necessary actions to execute any such outstanding warrant as soon as is practicable.

177           Whenever the court orders under this chapter that an order from this jurisdiction and /or  
178 another jurisdiction become effective in the Commonwealth and that the respondent refrain from

179 harassing the petitioner or have no contact with the petitioner, the clerk-magistrate shall transmit  
180 2 certified copies of each such order and 1 copy of the petition and summons forthwith to the  
181 appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve 1  
182 copy of each order upon the respondent, together with a copy of the petition, order and summons  
183 and notice of any suspension or surrender ordered pursuant to section 12. The law enforcement  
184 agency shall promptly make its return of service to the court.

185 Law enforcement officers shall use every reasonable means to enforce such Harassment  
186 Prevention Orders. Law enforcement agencies shall establish procedures adequate to insure that  
187 an officer on the scene of an alleged violation of such order may be informed of the existence  
188 and terms of such order. The court shall notify the appropriate law enforcement agency in  
189 writing whenever any such order is vacated and shall direct the agency to destroy all record of  
190 such vacated order and such agency shall comply with that directive.

191 Each Harassment Prevention Order issued shall contain the following statement:  
192 VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

193 Any violation of such order or a protection order issued by another jurisdiction shall be  
194 punishable by a fine of not more than \$5,000, or by imprisonment for not more than 2 ½ years in  
195 a house of correction, or by both such fine and imprisonment. In addition to, but not in lieu of,  
196 the forgoing penalties and any other sentence, fee or assessment, including the victim witness  
197 assessment as provided in section 8 of chapter 258B, the court shall order persons convicted of  
198 violating a provision of this chapter an additional assessment of \$25 that shall be transmitted to  
199 the treasurer for deposit into the General Fund.

200 In each instance of a violation of a Harassment Prevention Order or a protection order  
201 issued by another jurisdiction, the court may order the respondent to pay the petitioner for all  
202 damages including, but not limited to, loss of earnings, out-of-pocket losses for injuries  
203 sustained, replacement costs for locks or personal property removed or destroyed, medical costs,  
204 moving expenses, cost for obtaining an unlisted telephone number, and reasonable attorney's  
205 fees.

206 Any such violation may be enforced in the superior, district, Boston municipal or juvenile  
207 (if the petitioner or respondent are juveniles) court departments. Criminal remedies provided  
208 herein are not exclusive and do not preclude any other available civil or criminal remedies. The  
209 superior, district, Boston municipal or juvenile court departments may each enforce by civil  
210 contempt procedure a violation of its own court order.

211 The provisions of section eight of chapter one hundred and thirty six shall not apply to  
212 any order, complaint or summons issued pursuant to this section.

213 Section 10. Granting of relief when court is closed; certification.

214 When the court is closed for business or the petitioner is unable to appear in court  
215 because of severe hardship due to the petitioner's physical condition, any justice of the Superior,  
216 District, Boston Municipal, or Juvenile (if the petitioner or respondent are juveniles) court  
217 departments may grant relief to the petitioner as provided under section 8 if the petitioner has  
218 been a victim of harassment and demonstrates a substantial likelihood of immediate danger of  
219 harassment. In the discretion of the justice, such relief may be granted and communicated by  
220 telephone to an officer or employee of an appropriate law enforcement agency, who shall record  
221 such order on a form of order promulgated for such use by the Chief Justice for Administration

222 and Management and shall deliver a copy of such order on the next court day to the clerk-  
223 magistrate of the court having venue and jurisdiction over the matter. If relief has been granted  
224 without the filing of a petition pursuant to this section, the petitioner shall appear in court on the  
225 next available business day to file said petition. If the petitioner in such a case is unable to appear  
226 in court without severe hardship due to the petitioner's physical condition, then a representative  
227 may appear in court on the petitioner's behalf and file the requisite petition with an affidavit  
228 setting forth the circumstances preventing the petitioner from appearing personally. Notice to the  
229 petitioner and respondent and an opportunity for the respondent to be heard shall be given as  
230 provided in section 7.

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

236 Section 11. Order for suspension and surrender of firearms license; surrender of firearms;  
237 petition for review; hearing.

238 Upon issuance of a temporary or emergency order under sections 7 or 10, the court shall,  
239 if the petitioner demonstrates a substantial likelihood of immediate danger of harassment, order  
240 the immediate suspension and surrender of any license to carry firearms and or firearms  
241 identification card which the respondent may hold and order the respondent to surrender all  
242 firearms, rifles, shotguns, machine guns and ammunition which the respondent then controls,  
243 owns or possesses in accordance with the provisions of this chapter and any license to carry

244 firearms or firearms identification cards which the respondent may hold shall be surrendered to  
245 the appropriate law enforcement officials in accordance with the provisions of this chapter and,  
246 said law enforcement official may store, transfer or otherwise dispose of any such weapon in  
247 accordance with section 129D of chapter 140; provided however, that nothing herein shall  
248 authorize the transfer of any weapons surrendered by the respondent to anyone other than a  
249 licensed dealer. Notice of such suspension and ordered surrender shall be appended to the copy  
250 of Harassment Prevention Order served on the respondent pursuant to section 7. Law  
251 enforcement officials, upon the service of said orders, shall immediately take possession of all  
252 firearms, rifles, shotguns, machine guns, ammunition, any license to carry firearms and any  
253 firearms identification cards in the control, ownership, or possession of said respondent. Any  
254 violation of such orders shall be punishable by a fine of not more than \$5,000, or by  
255 imprisonment for not more than 2 1/2 years in a house of correction, or by both such fine and  
256 imprisonment.

257           Any respondent aggrieved by an order of surrender or suspension as described in  
258 the first sentence of this section may petition the court which issued such suspension or surrender  
259 order for a review of such action and such petition shall be heard no later than 10 court business  
260 days after the receipt of the notice of the petition by the court. If said license to carry firearms or  
261 firearms identification card has been suspended upon the issuance of an order issued pursuant to  
262 sections 7 or 10, said petition may be heard contemporaneously with the hearing specified in  
263 section 7. Upon the filing of an affidavit by the respondent that a firearm, rifle, shotgun,  
264 machine gun or ammunition is required in the performance of the respondent's employment, and  
265 upon a request for an expedited hearing, the court shall order said hearing within 2 business days

266 of receipt of such affidavit and request but only on the issue of surrender and suspension  
267 pursuant to this section.

268 Section 12. Continuation or modification of order for surrender or suspension.

269 Upon the continuation or modification of an order issued pursuant to section 8, or upon  
270 petition for review as described in section 11, the court shall also order or continue to order the  
271 immediate suspension and surrender of a respondent's license to carry firearms, including a Class  
272 A or Class B license, and firearms identification card and the surrender of all firearms, rifles,  
273 shotguns, machine guns or ammunition which such respondent then controls, owns or possesses  
274 if the court makes a determination that the return of such license to carry firearms, including a  
275 Class A or Class B license, and firearm identification card or firearms, rifles, shotguns, machine  
276 guns or ammunition presents a likelihood of harassment to the petitioner. A suspension and  
277 surrender order issued pursuant to this section shall continue so long as the protection order to  
278 which it relates is in effect; and, any law enforcement official to whom such weapon is  
279 surrendered may store, transfer or otherwise dispose of any such weapon in accordance with  
280 section 129D of chapter 140; provided, however, that nothing herein shall authorize the transfer  
281 of any weapons surrendered by the respondent to anyone other than a licensed dealer. Any  
282 violation of such order shall be punishable by a fine of not more than \$5,000 or by imprisonment  
283 for not more than 2 ½ years in a house of correction or by both such fine and imprisonment.

284 Section 13. Protection order issued by another jurisdiction; enforcement; filing;  
285 presumption of validity.

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

289 A person entitled to protection under a protection order issued by another jurisdiction  
290 may file such order in the Superior, District, Boston Municipal, or Juvenile (if the petitioner or  
291 respondent are juveniles) court departments by filing with the court a certified copy of such order  
292 which shall be entered into the Statewide Domestic Violence Record Keeping System pursuant  
293 to section 10. Such person shall swear under oath in an affidavit, to the best of such person's  
294 knowledge that such order is presently in effect as written. Upon request by a law enforcement  
295 agency, the clerk of such court shall provide a certified copy of the protection order issued by the  
296 other jurisdiction.

297 A law enforcement officer may presume the validity of, and enforce in accordance with  
298 section 9, a copy of a protection order issued by another jurisdiction which has been provided to  
299 the law enforcement officer by any source; provided, however, that the officer is also provided  
300 with a statement by the person protected by the order that such order remains in effect. Law  
301 enforcement officers may rely on such statement by the person protected by such order and  
302 cannot be subjected to civil or criminal liability so long as they have acted in good faith reliance  
303 upon the representations.

304 Section 14. Powers of police.

305 Whenever any law officer has reason to believe that an individual has been harassed or is  
306 in danger of being harassed, such officer shall use all reasonable means to prevent further  
307 harassment. The officer shall take, but not be limited to the following action:

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

312 (2) assist the victim in obtaining medical treatment necessitated by the harassment, which  
313 may include driving the victim to the emergency room of the nearest hospital, or arranging for  
314 appropriate transportation to a health care facility, notwithstanding any law to the contrary. If  
315 possible, the officer shall take the victim of a sexual assault to a location where a sexual assault  
316 nurse examiner is present. The officer shall consider the victim's preference in this regard and  
317 what is reasonable under all the circumstances;

318 (3) assist the victim in locating and getting to a safe place including, but not limited to, a  
319 designated meeting place for a shelter or a family member or friend's residence;

320 (4) give such person immediate and adequate notice of his or her rights. Such notice shall  
321 consist of handing said person a copy of the statement that follows below and reading the same  
322 to said person. If said person's native language is not English, the statement shall be then  
323 provided in said person's native language whenever possible.

324 "You have the right to appear at the Superior, District, Boston Municipal, or Juvenile (if  
325 the petitioner or respondent is a juvenile) court, if you reside within the appropriate jurisdiction,  
326 and file a petition requesting any of the following applicable orders: (a) an order directing your  
327 attacker to refrain from contacting you, an order directing your attacker to stay away from you,  
328 your dwelling and your workplace; and (b) an order directing your attacker to pay you for losses  
329 suffered as a result of the harassment including, but not limited to, loss of earnings, out-of-pocket



330 loses for injuries sustained, replacement costs for locks or personal property removed or  
331 destroyed, medical costs, moving expenses, cost for obtaining an unlisted telephone number and  
332 reasonable attorney's fees.

333 Initiation of a petition under this statute is not contingent upon going forward with a  
334 criminal proceeding nor is it contingent upon ongoing cooperation with law enforcement.

335 For an emergency on weekends, holidays, or weeknights the police will refer you to a  
336 justice of the Superior, District, Boston Municipal, or Juvenile (if the petitioner or respondent is  
337 a juvenile) court departments.

338 You have the right to go to the appropriate Superior, District, Boston Municipal, or  
339 Juvenile (if the petitioner or respondent is a juvenile) court and seek a criminal complaint for  
340 related offenses.

341 If you are in need of medical treatment, you have the right to request that an officer  
342 present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment. If  
343 you are the victim of sexual assault and if possible, the officer shall take you to a location where  
344 a sexual assault nurse examiners is present. The officer shall consider your preference in this  
345 regard and what is reasonable under all the circumstances.

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

351           You may request a copy of the police incident report at no cost from the police  
352 department."

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

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

357           (6) inform the victim that the assailant will be eligible for bail and may be promptly  
358 released; and

359           (7) arrest any person a law officer witnesses or has probable cause to believe has violated  
360 a temporary or permanent Harassment Prevention Order or judgment issued. When there are no  
361 Harassment Prevention Orders or judgments in effect, arrest shall be the preferred response  
362 whenever an officer witnesses or has probable cause to believe that a person:

363           (a) has committed a felony; or

364           (b) has committed a misdemeanor involving harassment as defined in section one of this  
365 chapter

366           (c) has committed an assault and battery that involved harassment

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

370 No law officer investigating an incident of harassment shall threaten, suggest, or  
371 otherwise indicate the arrest of all parties for the purpose of discouraging requests for law  
372 enforcement intervention by any party.

373 No law officer shall be held liable in any civil action regarding personal injury or injury  
374 to property brought by any party to a harassment incident for an arrest based on probable cause  
375 when such officer acted reasonably and in good faith and in compliance with this chapter.

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

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

384 When a judge or other person authorized to take bail grants bail for any person arrested  
385 under this chapter, he shall make reasonable efforts to inform the petitioner of such release prior  
386 to or at the time of said release.

387 When any person charged with or arrested for a crime involving harassment under this  
388 chapter is released from custody, the court or the emergency response judge shall issue, upon the  
389 request of the petitioner, a written no contact order prohibiting the person charged or arrested  
390 from having any contact with the petitioner, either directly or indirectly, and shall use all

391 reasonable means to notify the petitioner immediately of release from custody. The petitioner  
392 shall be given at no cost a certified copy of the no contact order.