

SENATE No. 2212

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to harrassment prevention orders.

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

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 265 the
2 following chapter:-

3 CHAPTER 265A.

4 HARASSMENT PREVENTION ORDERS.

5 Section 1. As used in this chapter the following words shall, unless the context
6 clearly indicates otherwise, have the following meanings:-- “Abuse”, the occurrence of 1
7 or more of the following acts: (i) attempting to cause or causing physical harm to another; or
8 (ii) placing another in fear of imminent serious physical harm. “Harassment”, (i) 3 or more
9 acts of willful and malicious conduct aimed at a specific person committed with the intent to
10 cause fear, intimidation, abuse or damage to property and that does in fact cause fear,
11 intimidation, abuse or damage to property; or

12 (ii) an act that: (A) causes results in another engaging in involuntarily in sexual relations
13 by force, threat or duress; or (B) constitutes a violation of section 13B, 13B½, 13B¾ 13F, 13H,

22, 22A, 22B, 22C, 23, 23A, 23B, 24, 24B, 26C, 43 or 43A of chapter 265 or section 3 of chapter 272.

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

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

“Malicious”, an act of cruelty, hostility or revenge.

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

Section 2. Proceedings under this chapter shall be filed, heard and determined in the superior court department or the Boston municipal court department or the respective divisions of the juvenile, or district court departments having venue over the plaintiff’s residence. The juvenile court shall have jurisdiction over all proceedings under this chapter when both the plaintiff and the defendant are under the age of 17.

Section 3. (a) A person suffering from harassment may file a complaint in the court requesting protection from such harassment including, but not limited to, the following orders:

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

35 plaintiff, unless authorized by the court, whether the defendant is an adult or minor;

36 (iii) ordering the defendant to remain away from the plaintiff's household, multiple
37 family dwelling and workplace, whether the defendant is an adult or minor;

38 iv) ordering the defendant to pay the plaintiff monetary compensation for the losses
39 suffered as a direct result of harassment. Compensatory losses shall include, but not be limited
40 to, loss of earnings, out-of-pocket losses for injuries sustained or property damaged, cost of
41 replacement of locks, medical expenses, cost for obtaining an unlisted phone number, and
42 reasonable attorney's fees;

43 (v) ordering information in the case record to be impounded in accordance with court
44 rule.

45 (b) No filing fee shall be charged for the filing of the complaint. Neither the plaintiff nor
46 the plaintiff's attorney shall be charged for certified copies of any orders entered by the court, or
47 any copies of the file reasonably required for future court action or as a result of the loss or
48 destruction of plaintiff's copies.

49 (c) Any relief granted by the court shall be for a fixed period of time not to exceed 1
50 year. Every order shall on its face state the time and date the order is to expire and shall include
51 the date and time that the matter will again be heard. If the plaintiff appears at the court at the
52 date and time the order is to expire, the court shall determine whether or not to extend the order
53 for any additional time reasonably necessary to protect the plaintiff or to enter a permanent order.
54 When the expiration date stated on the order is on a weekend day or holiday, or a date when the
55 court is closed to business, the order shall not expire until the next date that the court is open to
56 business. The plaintiff may appear on such next court business day at the time designated by the

order to request that the order be extended. The court may also extend the order upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff from harassment. The fact that harassment has not occurred during the pendency of an order shall not, in itself, constitute sufficient ground for denying or failing to extend the order, of allowing an order to expire or be vacated, or for refusing to issue a new order.

(d) The court may modify its order at any subsequent time upon motion by either party. When the plaintiff's address is inaccessible to the defendant as provided in section 8 and the defendant has filed a motion to modify the court's order, the court shall be responsible for notifying the plaintiff. In no event shall the court disclose any such inaccessible address.

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

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

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

78 chapter 272 of the General Laws. Whenever possible, a complainant shall be provided with such
79 information in the complainant's native language.

80 Section 4. Upon the filing of a complaint under this chapter, the court may enter such
81 temporary orders as it deems necessary to protect a plaintiff from harassment, including relief as
82 provided in section 3.