

SENATE No. 2274

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to housing rights for victims of domestic violence.

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. Chapter 186 of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended by adding after section 22 the following new section;-

3 Section 23. 1. For the purposes of this section the following words shall have the
4 following meanings:

5 "domestic violence" shall have the same meaning as "abuse" as set forth in section 1 of
6 chapter 209A

7 "occupant" a person living or sleeping in a dwelling provided that an occupant
8 temporarily absent from the dwelling for safety reasons, shall be considered an occupant.

9 "owner" shall have the same meaning as "owner" as set forth at 105 C.M.R. 410.036

10 "rape" shall mean the commission of any act as set forth in sections 22, 22A, 23, 24 or
11 24B of chapter 265 or sections 2, 3 or 17 of chapter 272.

12 “sexual assault” shall mean the commission of any act as set forth in sections 13B, 13F,
13 13H, 13K of chapter 265 or section 35A of chapter 272.

14 “stalking” shall mean the commission of any act as set forth in sections 43 or 43A chapter
15 265.

16 “qualified third party” shall mean a police officer, licensed medical care provider, an
17 employee of a court of the state acting in the course of his or her duties, member of the clergy, an
18 attorney from whom the victim has sought assistance in addressing domestic violence, dating
19 violence, sexual assault, or stalking or the effects of same , licensed social worker, licensed
20 mental health professional , a sexual assault counselor as defined in section 20J of chapter 233 or
21 a domestic violence victims’ counselor as defined in section 20K of chapter 233. “Quitting date”
22 shall mean the date upon which the tenant or occupant actually vacates the unit and removes all
23 her or his belongings and/or vacates the unit and notifies the owner that she or he is abandoning
24 the unit.

25 Section 23. 2.(a) . For purposes of entitlement to protection under section 23 of chapter
26 186, proof of status of as a victim of domestic violence, rape, sexual assault or stalking shall be
27 made by any of the following:

28 i. copy of a valid order for protection under chapter 209A obtained by the
29 tenant or occupant or member of her or his household;

30 ii. written verification from a law enforcement officer that the tenant or
31 occupant or a member of his or her household has notified the law enforcement officer of an act
32 or acts of domestic violence, rape, sexual assault or stalking; or

33 iii. written verification from a qualified third party that the tenant or
34 occupant or member of her or his household consulted with that qualified third party and
35 reported the domestic violence, rape, sexual assault, or stalking to the qualified third party. Said
36 verification shall include the name of the organization, agency, clinic, or professional service
37 provider and include the date and details of the domestic violence, rape, sexual assault, or
38 stalking. The victim shall also sign the verification under the penalty of perjury, that the incident
39 described is true and correct.

40 (b) When a tenant or occupant or member of his or her household provides to the owner
41 proof of her or his status as a victim of domestic violence, rape, sexual assault or stalking as
42 provided in this section, the tenant or occupant may terminate the rental agreement and quit the
43 premises. However, the request to terminate the rental agreement must occur within six months
44 of the most recent acts, events, or circumstances that gave rise to the protective order, report to a
45 law enforcement officer, or consultation with or report to a qualified third party. The owner shall
46 have the right to request such proof of status as a victim of domestic violence, rape, sexual
47 assault or stalking but is not required to make such a request.

48 (c) An owner who obtains written proof of status as a victim of domestic violence, rape,
49 sexual assault or stalking pursuant to this section shall keep said documentation confidential and
50 shall not provide or allow access to it in any way to any other persons or agencies except with
51 the written authorization of the victim.

52 3. A tenant or occupant who terminates a rental agreement under this section is
53 discharged from the payment of rent for any period following the month of the quitting date, and
54 is entitled to a refund of any prepaid rent for any period following the month of the quitting date,

55 and shall receive a full and specific statement of the basis for retaining any of security deposit
56 together with any refund due in compliance with section 15B of chapter 186. Other tenants who
57 are parties to the rental agreement are not released from their obligations under the rental
58 agreement or other obligations under this chapter.

59 4. (a) An owner may not terminate a tenancy, fail to renew a tenancy, or refuse to enter
60 into a rental agreement based on the tenant or occupant's or applicant's or a member of his or her
61 household's status as a victim of domestic violence, rape, sexual assault or stalking, or based
62 upon actions or failure to act that resulted from domestic violence, rape, sexual assault or
63 stalking directed at the tenant's or a member of his or her household. . An owner shall not
64 terminate a tenancy of a tenant who has provided temporary shelter of up to four weeks to a
65 victim of domestic violence, rape, sexual assault or stalking based upon alleged unauthorized
66 occupants. An owner may not refuse to enter into a rental agreement based on the tenant or
67 applicant having terminated or having a history of having terminated a rental agreement under
68 subsection 2 of this section nor shall an owner cause to be made any written or oral inquiry or
69 record concerning an applicant's status as a victim of domestic violence, rape, sexual assault or
70 stalking or history of such status provided that if an applicant seeks a priority or preference from
71 a housing provider based upon the applicant's status as a victim of domestic violence, rape,
72 sexual assault, or stalking , or, if an occupant seeks assistance from a housing provider based
73 upon the preceding status, the provider may request documentation of the domestic violence,
74 rape, sexual assault, or stalking.

75 (b) An owner who refuses to enter into a rental agreement or who terminates a tenancy
76 or refuses to enter into a new tenancy or who makes inquiry into an applicant's status as a victim
77 of domestic violence, rape, sexual assault or stalking or history of such status in violation of this

78 section shall be liable to the tenant or applicant in a civil action for damages sustained by the
79 tenant or applicant. The tenant or applicant may also recover court costs and reasonable
80 attorneys' fees incurred in association with actions resulting from this section.

81 (c) This section does not prohibit adverse housing decisions based upon other lawful
82 factors within the owner's knowledge, including, but not limited to, nonpayment of rent.
83 However, in the event of an action by the owner to recover possession of the premises after
84 nonpayment of rent, if the neglect or refusal to pay the rent due is based upon or directly related
85 to domestic violence rape, sexual assault, or stalking, there shall be no recovery of possession if
86 the victim tenders the full amount of any rent lawfully due the owner on or before the day the
87 answer is due in said action or on or before any reasonable later date set by the Court after
88 hearing.

89 (d) Nothing in this Section shall interfere with any rights or remedies not proscribed
90 herein and available to an owner under existing Massachusetts law to protect other occupants or
91 other persons lawfully on the premises or to protect the premises from physical harm.

92 5. In any new action brought for possession of premises occupied for dwelling purposes
93 involving domestic violence, rape, sexual assault, or stalking, the court, consistent with its
94 existing equitable authority, shall have the authority to craft an equitable solution which protects
95 the legitimate concerns of all parties.

96 6.(a) Neither a tenant screening service provider nor an owner may include information in
97 a written or oral report to an owner pertaining to domestic violence, rape, sexual assault or
98 stalking; pertaining to the fact that the subject of the report is a victim of domestic violence, rape,

99 sexual assault or stalking; or that the subject of the report has terminated a rental agreement
100 under subsection 2 of this section.

101 (b) A tenant screening service provider or an owner who violates this section shall be
102 liable in a civil action for damages sustained by the subject of the report. The subject of the
103 report may recover court costs and reasonable attorneys' fees incurred as a result of violations of
104 this section.

105 7. (a) An owner shall, upon the request of a tenant or occupant of a residential dwelling
106 unit, change the exterior locks of the dwelling unit in which the tenant or occupant lives if one or
107 more of the tenants or occupants reasonably believes that one of the tenants or occupants or a
108 member of the tenant or occupant's household is under a credible imminent threat of domestic
109 violence, rape, sexual assault, or stalking at the premises. The owner shall have the right to
110 request, in good faith, evidence to support a claim of domestic violence, rape, sexual assault or
111 stalking. However, no owner is required to request such evidence and can change the locks as
112 requested upon receipt of the written request of the tenant or occupant alone.

113 If the threat of domestic violence, rape, sexual assault or stalking is from a person
114 who is also a tenant or occupant of the leased dwelling unit, notice to the owner requesting a
115 change of exterior locks shall be accompanied by evidence to support a claim of domestic
116 violence, rape, sexual assault, or stalking including but not limited to orders pursuant to G.L. c.
117 209A, police reports, or court records indicating which tenant or occupant is posing the threat of
118 domestic violence, rape, sexual assault, or stalking. The tenant or occupant requesting a change
119 of exterior locks shall not be required to obtain written notice from or give notice to the person

120 posing a threat regardless of which tenant is the lessee or head of household under a written lease
121 or tenancy at will.

122 Notwithstanding the preceding two paragraphs, where a court of the
123 Commonwealth has issued an order pursuant to chapter 209A or any other provision of law,
124 vacating a tenant or occupant from the dwelling unit, the owner shall do nothing to interfere with
125 this order and upon a request to change the exterior locks as described in this section, shall
126 comply with this request.

127 An owner complying with this section or with the requirements of a chapter 209A
128 or other order, shall be relieved of any liability to the vacated tenant or occupant or to any other
129 third party on account of the owner's good faith compliance with the court order and/or the
130 owner's good faith changing the exterior locks as provided in this section.

131 (b) An owner who has received notice of a request for change of exterior locks as
132 provided in paragraph a. above, shall, within 48 hours, change the exterior locks or give the
133 tenant or occupant the permission to change the exterior locks. If the owner changes the exterior
134 locks, the owner shall give a key to the new exterior locks to the tenant or occupant requesting
135 the exterior lock change as soon as possible or not more than 48 hours of the exterior locks being
136 changed.

137 (c) An owner may charge a fee for the expense of changing the exterior locks. That fee
138 must not exceed the reasonable price customarily charged for changing an exterior lock in that
139 community.

140 (d) If an owner fails to change the exterior locks within 48 hours after being provided
141 with the notice described in paragraph a. above, along with evidence if required by paragraph a.

142 above, the tenant or occupant may change the exterior locks without the owner's permission.
143 Where the lease or tenancy agreement requires that the owner retain a key to the leased
144 residential premises, where the tenant or occupant changes the exterior locks, the tenant or
145 occupant shall make a good faith effort to give a key to the new exterior locks to the owner
146 within 48 hours of the exterior locks being changed. In the case where a tenant or occupant
147 changes the exterior locks without the owner's permission, the tenant or occupant shall do so in a
148 workmanlike manner with exterior locks of similar or better quality than the original exterior
149 locks.

150 (e) Any owner who takes action to prevent the tenant or occupant who has complied with
151 paragraph a, above from changing his or her exterior locks or any owner who changes the
152 exterior locks and does not make a good faith effort to provide a key to the tenant or occupant as
153 provided in paragraph b above, shall be liable for actual and consequential damages or three
154 months' rent, whichever is greater, and the costs of the action including a reasonable attorney's
155 fee, all of which may be applied in setoff or recoupment against any claim for rent owed or
156 owing for use and occupancy. The superior and district courts shall have jurisdiction in equity to
157 restrain violations of this section. The provisions of section 18 of chapter 186 and section 2A of
158 chapter 239 shall apply to any act taken as a reprisal against any person for requesting the
159 exterior locks be changed in accordance with this section and/or for proceeding against
160 violations of this section. Any waiver of this provision in any lease or other rental agreement,
161 except with respect to any restriction specified or imposed by the United States or any agency
162 thereof or the commonwealth or any agency or political division, shall be void and
163 unenforceable.

164 8. No owner shall refuse to sell or negotiate for sale or lease or otherwise to deny or
165 withhold from any person or group of persons accommodations or land because of the person or
166 group or persons status as a victims of domestic violence, rape, sexual assault or stalking or
167 history of such status.

168 SECTION 2. Section 2A of chapter 239 of the General laws, as appearing in the 2006
169 Official Edition is hereby amended by inserting in line 14, after the words, “eighty-three A” the
170 following :

171 , or the tenant or a member of her or his household’s taking any action pursuant to section
172 3 of chapter 209A or taking any action pursuant to section 23 of chapter 186, or reporting to any
173 law enforcement official or court official any incident of domestic violence, rape, sexual assault
174 or stalking against the tenant or occupant or member of her or his household, or reporting to any
175 law enforcement official or court official the violation of any order issued pursuant to section 3
176 of chapter 209A or 23 of chapter 186, or any act of abuse as set forth in section 8 of chapter
177 209A directed against him or her

178 SECTION 3. Section 3 of chapter 258C of the General Laws, as appearing in the 2006
179 Official Edition is hereby amended by adding, at the end, the following new section:

180 (G) Victim Compensation: In order to protect the health and safety of victims as defined
181 in Section 1 of chapter 258C, expenses incurred by the victim for changing locks to a residential
182 dwelling unit shall be compensable in accordance with this chapter; provided however that when
183 claiming compensation for such expenses the claimant must demonstrate an out - of - pocket loss
184 or a legal liability for payment of said expenses. No expenses for lock changes shall be paid for

185 the expenses or the portion of expenses which are reimbursable by an insurance policy which
186 covers these costs.