

HOUSE No. 1381

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to firearm safety and harassment prevention orders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/17/2019</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/23/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/1/2019</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/1/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/28/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>2/1/2019</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>	<i>1/30/2019</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>1/31/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/30/2019</i>

HOUSE No. 1381

By Ms. Decker of Cambridge, a petition (accompanied by bill, House, No. 1381) of Marjorie C. Decker and others relative to firearm safety and harassment prevention orders. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to firearm safety and harassment prevention orders.

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

1 SECTION 1. Chapter 258E of the General Laws, as appearing in the 2016 Official
2 Edition, is hereby amended by inserting after section 4 the following 3 sections:-

3 Section 4A. Upon issuance of a temporary or emergency order under section five or six
4 of this chapter, the court shall, if the plaintiff demonstrates a substantial likelihood of immediate
5 danger of harassment, order the immediate suspension and surrender of any license to carry
6 firearms and or firearms identification card which the defendant may hold and order the
7 defendant to surrender all firearms, rifles, shotguns, machine guns and ammunition which he
8 then controls, owns or possesses in accordance with the provisions of this chapter and any
9 license to carry firearms or firearms identification cards which the defendant may hold shall be
10 surrendered to the appropriate law enforcement officials in accordance with the provisions of this
11 chapter and, said law enforcement official may store, transfer or otherwise dispose of any such
12 weapon in accordance with the provisions of section 129D of chapter 140; provided however,
13 that nothing herein shall authorize the transfer of any weapons surrendered by the defendant to

14 anyone other than a licensed dealer. Notice of such suspension and ordered surrender shall be
15 appended to the copy of harassment prevention order served on the defendant pursuant to section
16 nine. Law enforcement officials, upon the service of said orders, shall immediately take
17 possession of all firearms, rifles, shotguns, machine guns, ammunition, any license to carry
18 firearms and any firearms identification cards in the control, ownership, or possession of said
19 defendant. Any violation of such orders shall be punishable by a fine of not more than five
20 thousand dollars, or by imprisonment for not more than two and one-half years in a house of
21 correction, or by both such fine and imprisonment. Any defendant aggrieved by an order of
22 surrender or suspension as described in the first sentence of this section may petition the court
23 which issued such suspension or surrender order for a review of such action and such petition
24 shall be heard no later than ten court business days after the receipt of the notice of the petition
25 by the court. If said license to carry firearms or firearms identification card has been suspended
26 upon the issuance of an order issued pursuant to section five or six, said petition may be heard
27 contemporaneously with the hearing specified in the second sentence of the second paragraph of
28 section five. Upon the filing of an affidavit by the defendant that a firearm, rifle, shotgun,
29 machine gun or ammunition is required in the performance of the defendant's employment, and
30 upon a request for an expedited hearing, the court shall order said hearing within two business
31 days of receipt of such affidavit and request but only on the issue of surrender and suspension
32 pursuant to this section.

33 Section 4B. Upon the continuation or modification of an order issued pursuant to section
34 5 or upon petition for review as described in section 4A, the court shall also order or continue to
35 order the immediate suspension and surrender of a defendant's license to carry firearms and
36 firearms identification card and the surrender of all firearms, rifles, shotguns, machine guns or

37 ammunition which such defendant then controls, owns or possesses if the court makes a
38 determination that the return of such license to carry and firearm identification card or firearms,
39 rifles, shotguns, machine guns or ammunition presents a likelihood of harassment to the plaintiff.
40 A suspension and surrender order issued pursuant to this section shall continue so long as the
41 restraining order to which it relates is in effect; and, any law enforcement official to whom such
42 weapon is surrendered may store, transfer or otherwise dispose of any such weapon in
43 accordance with the provisions of section 129D of chapter 140; provided, however, that nothing
44 herein shall authorize the transfer of any weapons surrendered by the defendant to anyone other
45 than a licensed dealer. Any violation of such order shall be punishable by a fine of not more than
46 \$5,000 or by imprisonment for not more than two and one-half years in a house of correction or
47 by both such fine and imprisonment.

48 Section 4C. Upon an order for suspension or surrender issued pursuant to sections 4A or
49 4B, the court shall transmit a report containing the defendant's name and identifying information
50 and a statement describing the defendant's alleged conduct and relationship to the plaintiff to the
51 department of criminal justice information services. Upon the expiration, cancellation or
52 revocation of the order, the court shall transmit a report containing the defendant's name and
53 identifying information, a statement describing the defendant's alleged conduct and relationship
54 to the plaintiff and an explanation that the order is no longer current or valid to the department of
55 criminal justice information services who shall transmit the report, pursuant to paragraph (h) of
56 section 167A of chapter 6, to the attorney general of the United States to be included in the
57 National Instant Criminal Background Check System.