

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Timothy R. Whelan, (BY REQUEST)

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 to amend Chapter 258E.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Abe Kasparian, Jr.</i>	<i>154 Weir Road Yarmouth Port, MA. 02675</i>	<i>9/13/2021</i>

HOUSE No.

By Mr. Whelan of Brewster (by request), a petition (subject to Joint Rule 12) of Abe Kasparian, Jr., relative to harassment prevention orders. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to amend Chapter 258E.

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. Subsection 1, Definitions under “Law officer” is hereby amended by
2 inserting in the last sentence the following words: “including Police Officers, Clerk Magistrates
3 of the Commonwealth of Massachusetts and any Political subdivision of any City or Town of the
4 Commonwealth of Massachusetts”

5 SECTION 1. Subsection 1, Definitions is hereby amended by inserting further
6 Definitions after the last Definition entitled “Protection order issued by another jurisdiction” and
7 adding or inserting the following words having meaning as used in this 258E Chapter the
8 following words:

9 “Civil Litigation” characterized by parties that may or may not be presented by attorneys,
10 and are involved in civil litigation before the superior court department or the respective
11 divisions of the district court department or the Boston municipal court department having venue
12 over the plaintiff’s residence.

13 “Pro Se” parties that are representing themselves who do not have attorneys in civil
14 litigation involving either the Plaintiff or Defendant in the Order of Protection.

15 SECTION 3 (a). Subsection (ii) refrain from contacting the plaintiff, unless authorized by
16 the court, whether the defendant is an adult or minor; is hereby amended by inserting after the
17 last word of this subsection “minor”, as follows:

18 NO exception if the HPO Order holder is a minor, without a Court Order allowing the
19 contact; and with the only exception where the Defendant and the Plaintiff are adult parties
20 engaged in civil litigation pursuant to Massachusetts Civil Rules of Procedure, that does NOT
21 require the Court’s allowance, and are suitable and professional documents required in civil
22 litigation either by email or hard copy document by first class US mail, and/or including
23 Supreme Judicial Court Rule 1:18 related to Uniform Rules on Dispute Resolution, and/or
24 Massachusetts District of Federal Court, which contains no “Abuse”, “Harassment” and/or
25 “Malicious” content or language that clearly shows a criminal intent, to abuse and/or Harass the
26 Plaintiff of the HOP Order, based on the Definitions stated above in this chapter 258E.

27 SECTION 8. Law officer emergency response to prevent further abuse or harassment

28 Subsection (8) is hereby amended by inserting after the last word of the second paragraph
29 this subsection “chapter”, as follows:

30 the only exception that if the Law Officer that issued the application for Criminal
31 Complaint, or Arrest for Criminal Complaint, or issues a Criminal Summons upon the
32 Defendant, in violation of section 3 (a) (ii) as Amended, which has caused unnecessary costs and
33 emotional distress by the Law Officer upon the Defendant, that can be proved in a subsequent
34 civil litigation or trial moved by the Defendant

35 and any damages awarded to the Defendant, would be paid by the Government
36 Administration that hired the Law Officer who issued the Criminal proceeding against the
37 Defendant without legal cause pursuant to the Definitions of 258E cited above herein.

38 Subsection (8) is hereby amended by inserting a fourth and fifth paragraph as follows:

39 [Fourth paragraph] “The Law Officer investigating the alleged violation of the HPO by
40 the Defendant must or shall be required to make contacted, during reasonable business hours by
41 either phone call, email, or visit to the Defendants home address at normal business hours and if
42 Defendant is unavailable at time of personal home visit, that Police Law Enforcement Officers,
43 shall provide written notice to Defendant to report to the Police Station to hear his or her facts of
44 the issues, only where there is NO physical harm caused to the Plaintiff, or destruction of
45 Plaintiff’s personal property, or any form of contact that a reasonable person can determine that
46 Defendant’s action(s) demonstrates a substantial likelihood of immediate danger of Plaintiff’s
47 personal or private personal property is at risk, or the Plaintiff’s employment , and if there is
48 such risk the Law Officer MUST detail with great written specific details the risk of immediate
49 physical danger to the Plaintiff, prior to taking criminal action against the Defendant.”

50 [Fifth paragraph] “That Law Officers shall or must and are required to take a Training
51 Course, provided by the Commonwealth of Trial Courts Magistrates, or by the hiring
52 Government of the Police or Law Officer or Senior Law Officer of the hiring Government to
53 teach the training course specifically designed in the issuing of 258E Applications or Warrants
54 for arrest of the Defendant for Violation of the HPO issued by the Court in favor of the Plaintiff,
55 prior to issuing any Application for Criminal Complaint or Warrant for the Arrest of the
56 Defendant for violation of HPO.”

57 III. ADDING THE FOLLOWING SECTION TO 258E FOR THOSE PARTIES WHOM
58 WOULD ABUSE THE INTEND OF 258E TO GAIN PERSONAL FINANCIAL GAIN OR
59 BAD FAITH MOTIVES TO THE LAST SECTION OF 258E sub section 12

60 Chapter 258E Section 12 is hereby amended by inserting after the last word, of section
61 12's paragraph of that subsection "Fund", by adding the following section numbered thirteen as
62 follows:

63 "Section 13: Assessment against persons/plaintiff who file false police requests under or
64 pursuant to their Harassment Prevention Order, ("HPO"), for the arrest of the Defendant or to
65 have the Police issue Applications for criminal Complaints or seek the Police or Law Officers as
66 defined above, to issue warrant for arrest, or for the issuance of criminal complaint against the
67 Defendant; and the Defendant may receive from the Plaintiff monetary compensation for the
68 losses suffered as a direct result of the false claim of harassment, or any criminal process against
69 the Defendant; provided, however, that compensatory damages shall include, but shall not be
70 limited to, loss of earnings, out-of-pocket losses for emotional injuries sustained by a false
71 charge of a criminal action request by the Plaintiff, and reasonable attorney's fees, and/or
72 personal costs if Defendant proceeds pro se; or where the Plaintiff has demanded that the Law
73 Officer or Police Officer issue an arrest, and where civil action shall be required by the
74 Defendant against the Plaintiff for the false charge, against the Defendant, for any of her por his
75 loses, but a civil action must be filed by the Defendant against the Plaintiff in the proper
76 jurisdiction of the civil Courts of the Commonwealth of Massachusetts."