

**SENATE . . . . . No. 1123**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Patrick M. O'Connor***

*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 empower and protect survivors of domestic violence.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	
<i>Steven G. Xiarhos</i>	<i>5th Barnstable</i>	<i>2/25/2021</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>3/3/2021</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>3/15/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>4/21/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>4/22/2021</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>4/22/2021</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>4/22/2021</i>
<i>James M. Kelcourse</i>	<i>1st Essex</i>	<i>6/15/2021</i>

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By Mr. O'Connor, a petition (accompanied by bill, Senate, No. 1123) of Patrick M. O'Connor, Steven G. Xiarhos, Bruce E. Tarr and Michael O. Moore for legislation to empower and protect survivors of domestic violence. The Judiciary.

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**The Commonwealth of Massachusetts**

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

An Act to empower and protect survivors 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. Notwithstanding any general or special law to the contrary, there shall be  
2 established a special commission to study the Commonwealth’s response to and resources for  
3 victims of domestic violence and sexual assault.

4           (a) The commission shall be comprised of the following members: the commissioner of  
5 probation; the director of the juvenile court probation department; the director of the probate and  
6 family court probation department; the director of the office of community corrections; the  
7 director of the electronic monitoring center; the executive director of the governor’s council to  
8 address sexual assault and domestic violence; an assistant attorney general to be appointed by the  
9 attorney general; the secretary of the executive office of public safety and security; the director  
10 of the Massachusetts office for victim assistance; two SAFEPLAN advocates to be appointed by  
11 the director of the Massachusetts office for victim assistance; the director of Jane Doe Inc. of  
12 Boston; the director of New Hope, Inc. of Attleboro; the director of the South Shore Resource

13 and Advocacy Center; the director of the Massachusetts intimate partner abuse education  
14 program; a law enforcement officer with experience in domestic violence and sexual assault  
15 cases to be appointed by the governor; the head of the domestic violence unit within the Boston  
16 police department; and two survivors of domestic abuse to be appointed by the governor. The  
17 board shall be chaired by the director of the Massachusetts office for victim assistance. Each  
18 such member may appoint a designee to serve in the member's place.

19 (b) The commission shall analyze current resource offerings to victims of domestic  
20 violence and sexual assault; study the efficiency of state departments in maintaining victim  
21 safety, including but not limited to probation departments; consider ways to provide robust  
22 opportunities for victim and community engagement, ongoing analysis, and oversight of  
23 probation department policies, practices, and procedures; analyze income-based privileges and  
24 disadvantages for victims in participating with probation proceedings; consider ways to ensure  
25 that victims are part of the probation process while holding offenders accountable and  
26 simultaneously reducing the rates of recidivism; analyze probation violation reporting advisories  
27 and other written resources and whether they are helpful, understandable, and effective for  
28 victims; and determine the feasibility of a complaint communication tool for victims to report  
29 probation officer misconduct.

30 (c) The first meeting of the commission shall take place no later than December 1, 2021  
31 and shall be organized by the director of the Massachusetts office for victim assistance.

32 (d) The commission shall produce a report of their findings and analysis along with any  
33 recommendations for legislation to the Clerks of the House and Senate and the chairs of the Joint  
34 Committee on the Judiciary no later than December 1, 2022.

35 SECTION 2. Chapter 276 of the general laws, as so appearing, is hereby amended by  
36 inserting the following new section:-

37 “Section 99C. Domestic violence and sexual assault probation unit

38 There shall be established in the superior court department, the Boston municipal court  
39 department, and divisions of the probate and family and district court departments a domestic  
40 violence and sexual assault probation unit within the court’s probation department. For the  
41 purposes of this section, the word “victim” shall mean a complainant that has filed a complaint  
42 under chapter 209A. For the purposes of this section, the word “unit” shall mean the domestic  
43 violence and sexual assault probation unit. The unit shall consist of:

44 (a) a domestic violence and sexual assault victim advocate who shall be stationed in the  
45 probation department and employed by an external non-profit organization whose mission  
46 includes but is not limited to advocating for victims of domestic violence and sexual assault by  
47 way of prevention and intervention services, receiving and handling victim complaints against  
48 probation officers, raising public awareness, and promoting safety and justice. The victim  
49 advocate shall act as the primary liaison between a victim that has filed a complaint and  
50 probation officers assigned to the victim’s open case. The victim advocate shall notify victims of  
51 any scheduled proceedings pursuant to the victim’s complaint, their rights in the probation  
52 process as established in the Victims Bill of Rights in Section 3 of Chapter 258B of the General  
53 Laws, as amended by this act, as well as the contact information of the probation officer assigned  
54 to the respondent of the victim’s complaint. The victim advocate shall interact with certified  
55 batterer’s treatment programs if the respondent is so enrolled to obtain current information to  
56 provide associated probation officers. The victim advocate shall compile and maintain pertinent

57 information as to the victim and their complaint, including but not limited to victim contact with  
58 release risk assessments, police reports relating to arrests and non-arrests, board of probation  
59 record, the interstate identification index, restraining orders and affidavits, victim statements,  
60 medical reports and photographs evidencing injury, and reports from certified batterer's  
61 treatment programs.

62 (b) probation officers as established in section 83 of chapter 276 of the general laws who  
63 shall exclusively be assigned to cases and complaints involving domestic violence and sexual  
64 assault. Probation officers within the unit shall be assigned to an offender or respondent to a  
65 domestic violence or sexual assault case or complaint. The probation officer that is assigned to  
66 an offender or respondent shall continue to serve the same client if they are found to have re-  
67 offended or committed the same offense against the original victim or a new victim. Probation  
68 officers within the unit, in addition to the training and education set forth in section 85 of said  
69 chapter 276, shall attend a training course on domestic violence and sexual assault and  
70 interacting with offenders. Said training course shall be designed and certified by the Governor's  
71 council to address sexual assault and domestic violence in collaboration with any affiliate non-  
72 profit organizations. If a probation officer's assigned respondent or offender enrolls in a certified  
73 batterer's treatment program and is found to be non-compliant with the requirements of the  
74 program, the probation officer shall surrender the assigned respondent or offender. During  
75 hearings and proceedings, probation officers shall disclose to the judge all material relative to the  
76 respondent's conduct including but not limited to any contact with the victim, global positioning  
77 satellite tracking device maintenance, or violations of conditions of release.

78 SECTION 3. Chapter 276 of the general laws is hereby further amended in section 58A  
79 subsection (2) by inserting a new subparagraph after subparagraph (2)(B):-

80 “(C) subject to the condition that the person maintain or commence a certified batterers’  
81 treatment program in the case of a violation of an order pursuant to section 3, 4 or 5 of chapter  
82 209 A, or a misdemeanor or felony involving abuse as defined in section 1 of said chapter 209A  
83 or of a violation of an order of protection issued under said chapter 209A in effect”

84 SECTION 4. Chapter 209A of the general laws, as so appearing, is hereby amended in  
85 section 1 by striking the definition of “Abuse” and replacing it with the following:-

86 "Abuse", the occurrence of one or more of the following acts between family, intimate  
87 partners, or household members:

88 (a) attempting to cause or causing physical harm;

89 (b) placing another in fear of imminent serious physical harm;

90 (c) causing another to engage involuntarily in sexual relations by force, threat or duress;

91 (d) coercive control, which is a pattern of behavior that in purpose or effect unreasonably  
92 interferes with a person’s free will and personal liberty. Examples of coercive control include,  
93 but are not limited to, unreasonably engaging in any of the following:

94 (1) isolating the other party from friends, relatives, or other sources of support;

95 (2) depriving the other party of basic necessities;

96 (3) controlling, regulating, or monitoring the other party’s movements, communications,  
97 daily behavior, finances, economic resources, or access to services;

98 (4) compelling the other party by force, threat of force, or intimidation, including threats  
99 based on actual or suspected immigration status, to engage in conduct from which the other party  
100 has a right to abstain or to abstain from conduct in which the other party has a right to engage.

101 SECTION 5. Chapter 209A of the general laws is hereby further amended in section 3 in  
102 subsection (i) by inserting at the end of the third paragraph the following:-

103 “When reviewing a request to extend or renew an order, the court shall take into account  
104 sobriety and substance use recovery, based on independent medical standards, if substance use  
105 was a factor in issuing the original order. A lack of sobriety or continuing existence of substance  
106 use shall weigh in favor of extending or renewing the order.”

107 SECTION 6 Chapter 209A of the general laws is hereby further amended in section 7 in  
108 the fifth paragraph by striking out the first sentence and inserting in place thereof the following:-

109 “Any violation of such order or a protection order issued by another jurisdiction shall be  
110 punishable by a fine of not more than ten thousand dollars, or by imprisonment for not more than  
111 five years in a house of correction, or by both such fine and imprisonment.”

112 SECTION 7. Chapter 209A is hereby further amended in section 7 by inserting after the  
113 word “compliance” at the end of the sixth paragraph the following sentence:-

114 “A defendant will not be relieved of his requirement to regularly attend a certified or  
115 provisionally certified batterer’s treatment program until said program can confirm in signed  
116 writing with the probation department that the defendant has shown marked improvements and  
117 has reached a level of understanding and reform that would deem them a non-threat to women. If  
118 the defendant is arrested or investigated by the police in connection with reports of domestic

119 violence or sexual assault while enrolled with a certified batterer’s treatment program, said  
120 program shall be apprised of the arrest or investigation by the defendant’s probation officer.”

121 SECTION 8. Chapter 209A is hereby further amended in section 7 by inserting after the  
122 word “system” at the end of eighth paragraph the following new paragraph:-

123 “The removal or destroying of said global positioning satellite tracking device without  
124 judicial approval or without a showing of necessity to prevent greater harm shall constitute a  
125 felony with a mandatory minimum sentence of 2 years in a state prison.”

126 SECTION 9. Chapter 209A is hereby amended in section 9 by adding at the end the  
127 following:-

128 “The form of complaint shall be supplied without withholding to any person who  
129 requests said form and shall be made easily accessible to the public by the offices promulgating  
130 said form.”

131 SECTION 10. The administrative justices of the superior court, probate and family court,  
132 district court, and the Boston municipal court departments shall jointly promulgate a new form of  
133 complaint for use under Chapter 209A of the general laws pursuant to this act which shall  
134 include but not be limited to the following additional fields:

135 (1) a field wherein a petitioner may indicate whether they have reasonable cause to be in  
136 fear of their life at the time of the complaint form’s submission;

137 (2) a field wherein a petitioner may indicate whether they are a victim of coercive  
138 control, a form of abuse as provided in section 4 of this act.



139 SECTION 11. The office of public safety and security shall establish, advertise, and  
140 maintain a toll-free telephone hotline that shall be capable of responding to and forwarding  
141 complaints including but not limited to instances of domestic violence and violations of  
142 probation to ensure full and immediate safety of the complainant. For the purposes of this  
143 section, “domestic violence” shall have the same meaning as “abuse” as defined in Section 1 of  
144 Chapter 209A and as amended by this act.

145 SECTION 12. Chapter 258B of the general laws, as so appearing, is hereby amended in  
146 section 3 in paragraph (b) by adding at the end the following:-

147 “If the respondent or offender has obtained approval to reschedule a hearing or  
148 proceeding, the court shall postpone the commencement of the proceeding if the victim is not  
149 present and if they have received communication that the victim is in transit to the proceeding,  
150 provided that the court may begin the proceeding within one hour of learning that the victim is in  
151 transit. The court may within its discretion postpone the proceeding for any amount of time to  
152 allow the victim to be present. If the victim cannot be present for a hearing or proceeding that  
153 was rescheduled by the respondent, the court may allow the victim advocate probation officer to  
154 offer remarks on behalf of the victim.”

155 SECTION 13. Chapter 258B is hereby further amended in section 3 in paragraph (g) by  
156 inserting after the word “recommendation”, the second time it appears, the following:-

157 “The prosecutor shall provide ample time to confer with the victim to fully explain the  
158 position and answer questions or address concerns.”

159 SECTION 14. Chapter 258B is hereby further amended in section 3 in paragraph (p) by  
160 adding at the end the following:-

161           “The court has the discretion to allow a victim to make a statement at any time during the  
162 proceeding prior to sentencing. The court shall allow a victim of domestic violence abuse as  
163 defined in Section 1 of Chapter 209A to make a brief statement at a hearing or proceeding prior  
164 to sentencing in response to a statement by the defendant or his attorney regarding a violation of  
165 a protective order, a violation of a condition of release, improper tampering with a global  
166 positioning satellite tracking device system, or failure to disclose relevant information on such  
167 matters. A judge may allow the victim or victim advocate probation officer to stipulate facts  
168 provided by the respondent;”

169           SECTION 15. Chapter 258B is hereby further amended in section 3 by adding the  
170 following new subparagraph:-

171           “(x) In the event of a necessitated change in prosecutors assigned to the victim’s case, the  
172 victim shall have the right to confer with the new prosecutor for a minimum of one hour to  
173 discuss the facts of the case and familiarize the victim with the prosecutor.”

174           SECTION 16. This Act shall go into effect immediately upon its passage.