SENATE DOCKET, NO. 675 FILED ON: 1/17/2023

SENATE . . . . . No. 1019

The Commonwealth of Massachusetts

PRESENTED BY:

Robyn K. Kennedy

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 improving protections for sexual assault survivors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Robyn K. Kennedy	*First Worcester*	
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*1/23/2023*
Susannah M. Whipps	*2nd Franklin*	*1/25/2023*
Jack Patrick Lewis	*7th Middlesex*	*1/26/2023*
Jason M. Lewis	*Fifth Middlesex*	*2/7/2023*
Mark C. Montigny	*Second Bristol and Plymouth*	*2/7/2023*
James K. Hawkins	*2nd Bristol*	*2/8/2023*
Walter F. Timilty	*Norfolk, Plymouth and Bristol*	*2/8/2023*
Joanne M. Comerford	*Hampshire, Franklin and Worcester*	*2/9/2023*
Anne M. Gobi	*Worcester and Hampshire*	*2/21/2023*
Paul R. Feeney	*Bristol and Norfolk*	*3/2/2023*
Michael O. Moore	*Second Worcester*	*3/15/2023*

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By Ms. Kennedy, a petition (accompanied by bill, Senate, No. 1019) of Robyn K. Kennedy, Rebecca L. Rausch, Susannah M. Whipps, Jack Patrick Lewis and other members of the General Court for legislation to improve protections for sexual assault survivors. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act improving protections for sexual assault survivors.

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

SECTION 1. Subsection (ii)(B) of the third paragraph of section 1 of chapter 258E of the General Laws (entitled “Harassment”), is hereby amended by inserting after the word “43A” the following words: - “50 or 51”

SECTION 2. Section 3 of Chapter 258E of the General Laws is hereby amended by striking out subsection (a), and inserting in place thereof the following subsection: -

(a) A person suffering from harassment may file a complaint in the appropriate court requesting protection from such harassment. A person may petition the court under this chapter for an order including but not limited to the following: that the defendant:

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

(ii) refrain from contacting the plaintiff, unless authorized by the court, whether the defendant is an adult or minor;

(iii) remain away from the plaintiff's household or workplace, whether the defendant is an adult or minor;

(iv) remain away from plaintiff if complaints are based on an act or acts that:

(A) by force, threat or duress causes another to involuntarily engage in sexual relations; or (B) constitutes a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43, 43A, 50 or 51 of chapter 265 or section 3 of chapter 272

(v) pay the plaintiff monetary compensation for the losses suffered as a direct result of the harassment; provided, however, that compensatory damages shall include, but shall not be limited to, loss of earnings, out-of-pocket losses for injuries sustained or property damaged, cost of replacement of locks, medical expenses, cost for obtaining an unlisted phone number and reasonable attorney's fees.

SECTION 3. Chapter 258E of the General Laws is hereby amended by inserting after section 4 of chapter 258E the following sections: -

Section 4A. Order for suspension and surrender of firearms license; surrender of firearms; petition for review; hearing

Upon issuance of a temporary or emergency order under section five of this chapter, the court shall, if the plaintiff demonstrates a substantial likelihood of immediate danger of abuse, order the immediate suspension and surrender of any license to carry firearms and or firearms identification card which the defendant may hold and order the defendant to surrender all

firearms, rifles, shotguns, machine guns and ammunition which the defendant then controls, owns or possesses in accordance with the provisions of this chapter and any license to carry firearms or firearms identification cards which the defendant may hold shall be surrendered to the appropriate law enforcement officials in accordance with the provisions of this chapter and, said law enforcement official may store, transfer or otherwise dispose of any such weapon in accordance with the provisions of section 129D of chapter 140; provided however, that nothing herein shall authorize the transfer of any weapons surrendered by the defendant to anyone other than a licensed dealer. Notice of such suspension and ordered surrender shall be appended to the copy of abuse prevention order served on the defendant pursuant to section seven. Law enforcement officials, upon the service of said orders, shall immediately take possession of all firearms, rifles, shotguns, machine guns, ammunition, any license to carry firearms and any

firearms identification cards in the control, ownership, or possession of said defendant. Any violation of such orders shall be punishable by a fine of not more than five thousand dollars, or by imprisonment for not more than two and one-half years in a house of correction, or by both such fine and imprisonment. Any defendant aggrieved by an order of surrender or suspension as described in the first sentence of this section may petition the court which issued such suspension or surrender order for a review of such action and such petition shall be heard no later than ten court business days after the receipt of the notice of the petition by the court. If said license to carry firearms or firearms identification card has been suspended upon the issuance of an order issued pursuant to section five or six, said petition may be heard contemporaneously with the hearing specified in the second sentence of the second paragraph of section five. Upon the filing of an affidavit by the defendant that a firearm, rifle, shotgun, machine gun or ammunition is required in the performance of the defendant's employment, and upon a request for an expedited

hearing, the court shall order said hearing within two business days of receipt of such affidavit and request but only on the issue of surrender and suspension pursuant to this section.

Section 4B: Continuation or modification of order for surrender or suspension

Upon the continuation or modification of an order issued pursuant to section 4A or upon petition for review as described in section 4A, the court shall also order or continue to order the immediate suspension and surrender of a defendant's license to carry firearms and firearms identification card and the surrender of all firearms, rifles, shotguns, machine guns or ammunition which such defendant then controls, owns or possesses if the court makes a determination that the return of such license to carry firearms and firearm identification card or firearms, rifles, shotguns, machine guns or ammunition presents a likelihood of abuse to the plaintiff. A suspension and surrender order issued pursuant to this section shall continue so long as the restraining order to which it relates is in effect; and, any law enforcement official to whom such weapon is surrendered may store, transfer or otherwise dispose of any such weapon in accordance with the provisions of section 129D of chapter 140; provided, however, that nothing herein shall authorize the transfer of any weapons surrendered by the defendant to anyone other than a licensed dealer. Any violation of such order shall be punishable by a fine of not more than $5,000 or by imprisonment for not more than two and one-half years in a house of correction or by both such fine and imprisonment.

SECTION 4. Chapter 258E of the General Laws is hereby amended by adding after section 12 the following section: - Section 13. Possession, care and control of domesticated animal owned by persons involved in certain protective orders; notice to law enforcement upon finding of imminent threat to household member or animal

Section 13.

(a) Whenever the court issues a temporary or permanent vacate, stay away, restraining or no contact order or a judgment under section 18, 34B or 34C of chapter 208, or under section 32 of chapter 209, or under section 3, 4 or 5 of this chapter, or under section 15 or 20 of chapter 209C, or under section 3 to 7, inclusive, of chapter 258E or a temporary restraining order or preliminary or permanent injunction relative to a domestic relations, child custody, domestic abuse or abuse prevention proceeding, the court may order the possession, care and control of any domesticated animal owned, possessed, leased, kept or held by either party or a minor child residing in the household to the plaintiff or petitioner. The court may order the defendant to refrain from abusing, threatening, taking, interfering with, transferring, encumbering, concealing, harming or otherwise disposing of such animal.

(b) A party to any proceeding listed in subsection (a) may petition the court for an order authorized by said subsection (a).

(c) Whenever the court issues a warrant for a violation of a temporary or permanent vacate, stay away, restraining or no contact order or a judgment issued under section 18, 34B or 34C of chapter 208, or under section 32 of chapter 209, or under section 3, 4 or 5 of this chapter, or under section 15 or 20 of chapter 209C, or section 3 to 7, inclusive, of chapter 258E or otherwise becomes aware that an outstanding warrant for such a violation has been issued against a person before the court, the judge may make a finding, based upon the totality of the circumstances, as to whether there exists an imminent threat of bodily injury to any party to such judgment or the petitioner of any such protective order, a member of the petitioner's family or household or to a domesticated animal belonging to the petitioner or to a member of the

petitioner's family or household. If the court makes a finding that such an imminent threat of bodily injury to a person or domesticated animal exists, the court shall notify the appropriate law enforcement officials of such finding and the law enforcement officials shall take all necessary actions to execute any such outstanding warrant as soon as is practicable.