

SENATE No. 2334

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Fourteen
—————

SENATE, July 31, 2014

Report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments to the Senate Bill enhancing protection for victims of domestic violence (Senate, No. 1897) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4038; by inserting before the enacting clause the following emergency preamble: “*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith certain provisions against domestic violence, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.”; and by striking out the title and inserting in place thereof the following title: “An Act relative to domestic violence),-- reports, a “Bill relative to domestic violence.” (Senate, No. 2334).

For the Committee:

Karen E. Spilka	Garrett J. Bradley
Cynthia Stone Creem	Christopher M. Markey
Richard J. Ross	Keiko M. Orrall

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An Act relative to domestic violence.

Whereas, the deferred operation of this act would tend to defeat its purpose which is to establish forthwith certain provisions against domestic violence, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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 6 of the General Laws is hereby amended by striking out section
2 116A, as appearing in the 2012 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 116A. (a) The municipal police training committee shall establish, within the
5 recruit basic training curriculum, a course for regional and municipal police training schools for
6 the training of law enforcement officers in the commonwealth in the handling of domestic
7 violence and sexual violence complaints and also shall develop guidelines for law enforcement
8 response to domestic violence and sexual violence. The course of instruction and the guidelines
9 shall stress enforcement of criminal laws in domestic violence and sexual violence situations,
10 availability of civil remedies and community resources and protection of the victim. The course
11 of instruction and guidelines shall also include specific training on adolescent development,
12 trauma and family dynamics. As appropriate, the training presenters shall include domestic

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13 violence and sexual violence experts with expertise in the delivery of direct services to victims of
14 domestic violence and sexual violence, including utilizing the staff of community based
15 domestic violence, rape and sexual assault service providers and survivors of domestic violence,
16 rape or sexual assault in the presentation of the training.

17 As used in this section, “law enforcement officer” shall mean any officer of a local police
18 department, the office of environmental law enforcement, the University of Massachusetts and
19 state police. As used in this section, “victim” shall mean any child or adult victim of such abuse,
20 including elder victims.

21 (b) The course of basic training for law enforcement officers shall include at least 8 hours
22 of instruction in the following procedures and techniques:

23 (1) the procedures and responsibilities set forth in chapter 209A relating to response to,
24 and enforcement of, court orders, including violations of orders issued pursuant to said chapter
25 209A;

26 (2) the service of said chapter 209A complaints and orders;

27 (3) verification and enforcement of temporary restraining and vacate orders when the
28 suspect is present or the suspect has fled;

29 (4) the legal duties imposed upon law enforcement officers to offer protection and
30 assistance, including guidelines for making felony and misdemeanor arrests, and for mandatory
31 reporting of child and elder abuse cases and cases involving individuals with disabilities;

32 (5) techniques for handling domestic violence and sexual violence incidents that
33 minimize [the](#) likelihood of injury to the law enforcement officer;

34 (6) techniques for handling domestic violence and sexual violence incidents that promote
35 the safety of the victim, including the importance of keeping the victim informed as to the
36 whereabouts of the suspect and other such information helpful for victim safety planning;

37 (7) the nature and extent of domestic violence and sexual violence, including the
38 physiological and psychological effects of the pattern of domestic violence and sexual violence
39 on victims, including children who witness such abuse;

40 (8) the increased vulnerability of victims who are gay, lesbian, bisexual, transgender,
41 low-income, minority or immigrant, ~~and~~ including training on ways in which the indicators of
42 dangerousness in these communities may be different from those in non-marginalized
43 communities;

44 (9) the dynamics of coercive controlling behavior that increases dangerousness even
45 when such patterns of behavior are not themselves violent;

46 (10) the legal rights and the remedies available to victims of domestic violence and
47 sexual violence;

48 (11) documentation, report writing and evidence collection, which shall include methods
49 for assessing the degree of risk of homicide involved in situations of domestic violence,
50 including, but not limited to, gathering information from the victim regarding the suspect's past
51 reported and non-reported behavior and dangerousness, such as: (i) whether the suspect has ever
52 used a weapon against the victim or threatened the victim with a weapon; (ii) whether the suspect
53 owns a gun; (iii) whether the suspect's physical violence against the victim has increased in
54 severity or frequency; (iv) whether the suspect has threatened to kill the victim; (v) whether the
55 suspect has ever threatened or attempted suicide; (vi) whether the suspect has used or threatened

56 physical violence against the victim's family, other household members or pets; (vii) whether the
57 suspect uses illegal drugs; (viii) whether the suspect abuses alcohol; and (ix) whether there have
58 been specific instances of strangulation or suffocation of the victim by the suspect;

59 (12) tenancy and custody issues, including those of married and unmarried couples;

60 (13) the impact of law enforcement intervention on children in domestic violence and
61 sexual violence situations;

62 (14) the services and facilities available to victims of abuse, including the victim's
63 compensation programs, emergency shelters and legal advocacy programs; and

64 (15) techniques for increasing cooperation and immediate data sharing among different
65 areas of law enforcement in combating domestic violence and sexual violence.

66 (c) All law enforcement recruits shall receive the course of basic training for law
67 enforcement officers, established in subsections (a) and (b), as part of their required certification
68 process.

69 (d) The course of basic training for law enforcement officers shall be taught as part of the
70 crisis intervention and conflict resolution components of the recruit academy training. Such
71 training shall not increase in the currently required 480 hours of recruit training curriculum.

72 (e) The course of instruction, the learning and performance objectives, the standards for
73 training and the guidelines shall be developed by the municipal police training committee in
74 consultation with appropriate groups and individuals having an interest and expertise in the fields
75 of domestic violence and sexual violence.

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76 (f) The municipal police training committee shall, subject to appropriation, periodically
77 include within its in-service training curriculum a course of instruction on handling domestic
78 violence and sexual violence complaints consistent with paragraphs (1) to (15), inclusive, of
79 subsection (b).

80 SECTION 2. Section 167 of said chapter 6, as so appearing, is hereby amended by
81 inserting after the word “non-convictions”, in line 5-, the following words:- , previous and
82 pending hearings conducted pursuant to section 58A of chapter 276, including requests of such
83 hearings, transfers by the court, disposition of such requests, findings and orders, regardless of
84 the determination,.

85 SECTION 3. Said section 167 of said chapter 6, as so appearing, is hereby further
86 amended by inserting after the word “proceedings”, in line 23, the following words:- , previous
87 hearings conducted pursuant to section 58A of chapter 276 where the defendant was detained
88 prior to trial or released with conditions under subsection (2) of section 58A of chapter 276,.

89 SECTION 4. Chapter 6A of the General Laws is hereby amended by inserting after
90 section 18M the following section:-

91 Section 18N. (a) As used in this subsection, the following words shall have the following
92 meanings:-

93 “Domestic violence”, the abuse of a family or household member, as defined in section 1
94 of chapter 209A.

95 “Fatality”, any death resulting from an incident of domestic violence or attempted
96 domestic violence, including the death of an individual who was not a family or household
97 member of the perpetrator’s.

98 “Local review team”, a local domestic violence fatality review team established pursuant
99 to subsection (c).

100 “State review team”, the state domestic violence fatality review team established pursuant
101 to subsection (b).

102 “Team”, either the local review team or the state review team.

103 (b) There shall be a state domestic violence fatality review team within the executive
104 office of public safety and security. Members of the state review team shall be subject to
105 criminal offender record checks to be conducted by the colonel of the state police. All members
106 shall serve without compensation for their duties associated with membership on the state team.
107 All members shall be immune from any liability resulting from the execution of their duties.

108 The state review team shall consist of the following members: the secretary of public
109 safety or a designee employed by the executive office of public safety and security who shall
110 serve as chair; the attorney general or a designee employed by the office of the attorney general;
111 the chief medical examiner or a designee employed by the office of the chief medical examiner;
112 a member selected by the Massachusetts District Attorneys Association; the colonel of the state
113 police or a designee employed by the department of state police; the commissioner of probation
114 or a designee employed by the office of probation; the chief justice of the trial court or a
115 designee; the chief justice of the family and probate court or a designee; and 1 member selected
116 by the Massachusetts office of victim assistance, who shall be employed by the office.

117 The purpose of the state team shall be to decrease the incidence of domestic violence
118 fatalities by: (i) developing an understanding of the causes and incidence of domestic violence
119 fatalities and domestic violence murder-suicides and the circumstances surrounding them; and
120 (ii) advising the governor and the general court by recommending changes in law, policy and
121 practice designed to prevent domestic violence fatalities. The state review team, in conjunction
122 with any local review teams, shall develop a report to be sent to the clerks of the house and
123 senate, the house and senate committees on ways and means, the joint committee on children,
124 families and persons with disabilities, the joint committee on public safety and homeland
125 security, and the joint committee on the judiciary. The report shall be issued not later than
126 December 31 of each year.

127 To achieve its purpose, the state review team shall: (1) develop model investigative and
128 data collection protocols for local review teams; (2) annually review incidents of fatalities within
129 the commonwealth and assign at least 3 reviews, selected at random, to a local review team for
130 investigation and report; provided, that no review shall be assigned unless it is approved by a
131 majority vote of the state review team and all criminal proceedings, including appeals, related to
132 the fatality are complete; (3) provide information to local review teams, law enforcement
133 agencies and domestic violence service providers for the purpose of protecting victims of
134 domestic violence; (4) provide training and written materials to local review teams to assist them
135 in carrying out their duties; (5) review reports from local review teams; (6) analyze community,
136 public and private agency involvement with victims and perpetrators of domestic violence and
137 their families prior to and subsequent to fatalities; (7) develop a protocol for the collection of
138 data regarding fatalities and provide training to local review teams on the protocol, which shall
139 include protocol and training on the issues of confidentiality of records, victims' identities and

140 any personally identifying data; (8) develop and implement rules and procedures necessary for
141 its own operation and the operation of local review teams, which shall include the use of
142 confidentiality agreements for both the state and local review teams; and (9) provide the
143 governor and the general court with annual written reports, subject to any applicable
144 confidentiality restrictions, which shall include, but not be limited to, the state team's findings
145 and recommendations

146 (c) If the state team selects a case for review, a local team shall be assembled to
147 participate in the review. Members of a local review team shall be subject to criminal offender
148 record checks to be conducted by the district attorney of the district. All members shall serve
149 without compensation. All members shall be immune from any liability resulting from the
150 execution of their duties.

151 Each local review team shall be chaired by the local district attorney and shall be
152 comprised of at least the following members, who shall be appointed by the district attorney and
153 who shall reside or work within the district: a medical examiner or pathologist; a chief of police;
154 a probation officer; a member with experience providing non-profit legal services to victims of
155 domestic violence; a member with experience in the delivery of direct services to victims of
156 domestic violence; and any other person with expertise or information relevant to an individual
157 case who may attend meetings on an ad hoc basis, including, but not limited to, local or state law
158 enforcement officers, local providers of social services, providers of community based domestic
159 violence, rape and sexual assault shelter and support services, hospital representatives, medical
160 specialists or subspecialists, teachers, family or friends of a victim and persons recommended by
161 the state review team.

162 The purpose of each local review team shall be to decrease the incidence of preventable
163 domestic violence fatalities by: (i) coordinating the collection of information on fatalities
164 assigned to it for review; (ii) promoting cooperation and coordination between agencies
165 | responding to fatalities and providing services to victims or victims' family members-; (iii)
166 | developing an understanding of the causes and incidence of domestic violence fatalities within
167 its area; and (iv) advising the state review team on changes in law, policy or practice which may
168 affect domestic violence fatalities.

169 To achieve its purpose, each local review team shall, subject to assignment by the state
170 review team: (1) review, establish and implement model protocols from the state review team;
171 (2) execute a confidentiality agreement; (3) review individual fatalities using the established
172 protocol; (4) recommend methods of improving coordination of services between agencies and
173 service providers in its area; (5) collect, maintain and provide confidential data as required by the
174 state review team; and (6) provide law enforcement or other agencies with information for the
175 purposes of the protection of victims of domestic violence and for the accountability of
176 perpetrators.

177 (d) At the request of the local district attorney, the local review team shall be immediately
178 provided with: (1) information and records relevant to the cause of the fatality, including those of
179 the perpetrator or any other party involved with the fatality maintained by providers of medical
180 or other care, treatment or services, including dental and mental health and behavioral care; (2)
181 information and records relevant to the cause of the fatality or any party involved with the
182 fatality maintained by any state, county or local government agency including, but not limited to,
183 birth certificates, medical examiner investigative data, incident reports, parole and probation
184 records and law enforcement's data post-disposition; provided, that certain law enforcement

185 records may be exempted by the local district attorney; (3) information and records of any
186 provider of social services, including the department of children and families and non-profit
187 agencies, related to the victim or victim's family or any party involved with the fatality,
188 including the perpetrator, that the local team deems relevant to the review; and (4) demographic
189 information relevant to the victim and the victim's immediate family or any party involved with
190 the fatality, including, but not limited to, address, age, race, country of origin-, gender and
191 economic status. The district attorney may enforce this subsection by seeking an order of the
192 superior court.

193 (e) Any privilege or restriction on disclosure established pursuant to chapter 66A, section
194 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapter 112, chapter 123 or
195 sections 20B, 20J, 20K or 20M of chapter 233 or any other law relating to confidential
196 communications which would otherwise be held by the victim of a fatality or protect records and
197 information directly related to such victim shall not prohibit the disclosure of such records or
198 information, as it directly relates to that victim, to the chair of the state review team or a local
199 review team. Any privilege or restriction on disclosure pursuant to the aforementioned statutes,
200 or any other law relating to confidential communications not directly related to the victim of a
201 fatality shall remain in effect; provided, however, that such privilege or restriction may be
202 waived, in writing, by the person holding it, for the limited purposes of disclosure to the state
203 review team or a local review team. Any information considered confidential pursuant to the
204 aforementioned statutes received by the chair of the state review team or a local review team
205 may be submitted for a team's review upon the determination of that team's chair that the review
206 of the information is necessary. The chair shall ensure that no information submitted for a team's

207 review is disseminated to parties outside the team. Under no circumstances shall any member of
208 a team violate the confidentiality provisions set forth in the aforementioned statutes.

209 Except as necessary to carry out a team's purpose and duties, members of a team and
210 persons attending a team meeting shall not disclose any information relating to the team's
211 business.

212 Team meetings shall be closed to the public. Information and records acquired by a team
213 pursuant to this section shall be confidential, shall not be considered public records, as defined in
214 clause twenty-sixth of section 7 of chapter 4, shall be exempt from disclosure pursuant to chapter
215 66 and may only be disclosed as necessary to carry out a team's duties and purposes . All such
216 records shall be maintained by the chair of the team.

217 Statistical compilations of data which do not contain any information that would permit
218 the identification of any person may be disclosed to the public.

219 (f) Members of a team, persons attending a team meeting and persons who present
220 information to a team may not be questioned in any civil or criminal proceeding regarding
221 information presented in or opinions formed as a result of a team meeting.

222 (g) Information, documents and records of a team shall not be subject to subpoena,
223 discovery or introduction into evidence in any civil or criminal proceeding; provided, however,
224 that information, documents and records otherwise available from any other source shall not be
225 immune from subpoena, discovery or introduction into evidence through these sources solely
226 because they were presented during proceedings of a team or are maintained by a team.

227 SECTION 5. Chapter 12 of the General Laws is hereby amended by adding the following
228 section:-

229 Section 33. The Massachusetts District Attorneys' Association shall provide training on
230 the issue of domestic violence and sexual violence in the commonwealth, at least once
231 biannually, to all district attorneys and assistant district attorneys. Such training shall include, but
232 not be limited to, the dissemination of information concerning:

233 (1) misdemeanor and felony offenses in which domestic violence and sexual violence are
234 often involved;

235 (2) the civil rights and remedies available to victims of domestic violence and sexual
236 violence;

237 (3) methods for assessing the degree of risk of homicide involved in situations of
238 domestic violence including, but not limited to, gathering information from the victim regarding
239 the suspect's past reported and non-reported behavior and dangerousness, such as: (i) whether
240 the suspect has ever used a weapon against the victim or threatened the victim with a weapon;
241 (ii) whether the suspect owns a gun; (iii) whether the suspect's physical violence against the
242 victim has increased in severity or frequency; (iv) whether the suspect has threatened to kill the
243 victim; (v) whether the suspect has ever threatened or attempted suicide; (vi) whether the suspect
244 has used or threatened physical violence against the victim's family, other household members or
245 pets; (vii) whether the suspect uses illegal drugs; (viii) whether the suspect abuses alcohol; and
246 (ix) whether there have been specific instances of strangulation or suffocation of the victim by
247 the suspect;

248 (4) law enforcement techniques, information sharing and methods of promoting
249 cooperation among different areas of law enforcement in combating domestic violence and
250 sexual violence, including the importance of keeping victims informed as to the whereabouts of
251 suspected abusers and other such information helpful for victim safety planning;

252 (5) the physiological and psychological effects of the pattern of domestic violence and
253 sexual violence on its victims, including children who witness such abuse;

254 (6) the increased vulnerability of victims who are gay, lesbian, bisexual, transgender,
255 low-income, minority or immigrant, and including training on ways in which the indicators of
256 dangerousness in these communities may be different from those in non-marginalized
257 communities;

258 (7) the dynamics of coercive controlling behavior that increases dangerousness even
259 when such patterns of behavior are not themselves violent;

260 (8) the underlying psychological and sociological causes of domestic violence and sexual
261 violence and the availability of batterer's intervention programs;

262 (9) the availability of community based domestic violence, rape, and sexual assault
263 shelter and support services within the commonwealth, including, to the extent practicable,
264 specific shelter and support services available in a district attorney's district; and

265 (10) techniques for increasing cooperation and immediate data sharing among different
266 areas of law enforcement and the court system in combating domestic violence and sexual
267 violence.

268 The Massachusetts District Attorneys' Association may appoint such expert, clerical and
269 other staff members as the operation of the training program may require. As appropriate, the
270 training presenters shall include domestic violence and sexual violence experts with expertise in
271 the delivery of direct services to victims of domestic violence and sexual violence, including
272 utilizing community based domestic violence, rape and sexual assault service providers and
273 survivors of domestic violence, rape or sexual assault in the presentation of the training.

274 SECTION 6. Chapter 17 of the General Laws is hereby amended by adding the
275 following section:-

276 Section 20. There shall be established and placed within the department of public health a
277 fund to be known as the Domestic and Sexual Violence Prevention and Victim Assistance Fund,
278 in this section referred to as the fund, to support innovative practices to prevent domestic and
279 sexual violence and provide assistance to victims of domestic violence in the commonwealth.
280 The fund shall be credited any appropriations, bond proceeds or other monies authorized by the
281 general court, which may properly be applied in furtherance of the objectives of the fund,
282 domestic and sexual violence prevention and victim assistance assessments, as specified in
283 section 8 of chapter 258B, and any other monies which may be available for the purposes of the
284 fund from any other source or sources. Any revenues, deposits, receipts or funds received shall
285 be deposited in the fund and shall be available for the purposes described in this section, without
286 further appropriation. Money remaining in the fund at the end of the year shall not revert to the
287 General Fund.

288 The fund shall be under the control of the department of public health and not subject to
289 appropriation. The fund shall be used for innovative practices, which shall include, but not be

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290 limited to: (i) community-based domestic and sexual violence prevention and assistance
291 programs and service providers; (ii) multi-disciplinary teams addressing victims of domestic and
292 sexual violence at high risk of homicide or fatality; and (iii) other programs and service
293 providers that support victims of domestic and sexual violence.

294 SECTION 7. Chapter 41 of the General Laws is hereby amended by striking out section
295 97D, as appearing in the 2012 Official Edition, and inserting in place thereof the following
296 section:-

297 Section 97D. All reports of rape and sexual assault or attempts to commit such offenses,
298 all reports of abuse perpetrated by family or household members, as defined in section 1 of
299 chapter 209A, and all communications between police officers and victims of such offenses or
300 abuse shall not be public reports and shall be maintained by the police departments in a manner
301 that shall assure their confidentiality; provided, however, that all such reports shall be accessible
302 at all reasonable times, upon written request, to: (i) the victim, the victim's attorney, others
303 specifically authorized by the victim to obtain such information, prosecutors and (ii) victim-
304 witness advocates as defined in section 1 of chapter 258B, domestic violence victims' counselors
305 as defined in section 20K of chapter 233, sexual assault counselors as defined in section 20J of
306 chapter 233, if such access is necessary in the performance of their duties; and provided further,
307 that all such reports shall be accessible at all reasonable times, upon written, telephonic,
308 facsimile or electronic mail request to law enforcement officers, district attorneys or assistant
309 district attorneys and all persons authorized to admit persons to bail pursuant to section 57 of
310 chapter 276. Communications between police officers and victims of said offenses and abuse
311 may also be shared with the forgoing named persons if such access is necessary in the

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312 performance of their duties. A violation of this section shall be punished by imprisonment for not
313 more than 1 year or by a fine of not more than \$1,000, or both such fine and imprisonment.

314 SECTION 8. Said chapter 41 is hereby further amended by striking out section 98F, as so
315 appearing, and inserting in place thereof the following section:-

316 Section 98F. Each police department and each college or university to which officers
317 have been appointed pursuant to section 63 of chapter 22C shall make, keep and maintain a daily
318 log, written in a form that can be easily understood, recording, in chronological order, all
319 responses to valid complaints received, crimes reported, the names, addresses of persons arrested
320 and the charges against such persons arrested. All entries in said daily logs shall, unless
321 otherwise provided in law, be public records available without charge to the public during
322 regular business hours and at all other reasonable times; provided, however, that the following
323 entries shall be kept in a separate log and shall not be a public record nor shall such entry be
324 disclosed to the public, or any individual not specified in section 97D: (i) any entry in a log
325 which pertains to a handicapped individual who is physically or mentally incapacitated to the
326 degree that said person is confined to a wheelchair or is bedridden or requires the use of a device
327 designed to provide said person with mobility, (ii) any information concerning responses to
328 reports of domestic violence, rape or sexual assault or (iii) any entry concerning the arrest of a
329 person for assault, assault and battery or violation of a protective order where the victim is a
330 family or household member, as defined in section 1 of chapter 209A.

331 SECTION 9. Chapter 112 of the General Laws is hereby amended by adding the
332 following section:-

333 Section 264. The board of registration in medicine, the board of registration in nursing,
334 the board of registration of physician assistants, the board of nursing home administrators, the
335 board of registration of social workers, the board of registration of psychologists and the board of
336 registration of allied mental health and human services professions shall develop and administer
337 standards for licensure, registration or certification pursuant to this chapter, as applicable, and
338 any renewal thereof, that require training and education on the issue of domestic violence and
339 sexual violence, including, but not limited to, the common physiological and psychological
340 symptoms of domestic violence and sexual violence, the physiological and psychological effects
341 of domestic violence and sexual violence on victims, including children who witness such abuse,
342 the challenges of domestic violence and sexual violence victims who are gay, lesbian, bisexual,
343 transgender, low-income, minority, immigrant or non-English speaking , availability of rape and
344 sexual assault shelter and support services within the commonwealth. Training shall also address
345 the pathology of offenders including, but not limited to, identifying the system of abusive
346 behaviors used to maintain control, the intentionality of the violence, the tendency to minimize
347 abuse and blame the victim and the risk to the victim created by joint counseling. Each board
348 may work with community-based domestic violence, rape and sexual assault service providers
349 and certified batterer's intervention programs in order to develop the standards required by this
350 section. Each board shall: (i) promulgate rules and regulations establishing the standards
351 required by this section; and (ii) identify programs or courses of study which meet these
352 standards and the promulgated rules or regulations. Each board shall provide a list of the
353 identified programs or courses of study to an applicant for licensure, registration or certification,
354 or renewal thereof.

355 ~~SECTION 10. Section 121 of chapter 140 of the General Laws, as appearing in the 2012~~
356 ~~Official Edition, is hereby amended by striking out, in lines 6 to 8, inclusive, the words “,~~
357 ~~chemical mace or any device or instrument which contains or emits a liquid, gas, powder or any~~
358 ~~other substance designed to incapacitate”.~~

359 ~~SECTION 11. Said chapter 140 is hereby further amended by inserting after section 122B~~
360 ~~the following 2 sections:-~~

361 ~~Section 122C. (a) As used in this section and section 122D, “self defense spray” shall~~
362 ~~mean chemical mace, pepper spray or any device or instrument which contains, propels or emits~~
363 ~~a liquid, gas, powder or other substance designed to incapacitate.~~

364 ~~(b) Whoever, not being licensed as provided in section 122B, sells self defense spray~~
365 ~~shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment in a~~
366 ~~house of correction for not less than 6 months nor more than 2 years.~~

367 ~~(c) Whoever sells self defense spray to a person younger than 18 years of age, if the~~
368 ~~person younger than 18 years of age does not have a firearms identification card, shall be~~
369 ~~punished by a fine of not more than \$300.~~

370 ~~(d) A person under 18 years of age who possesses self defense spray and who does not~~
371 ~~have a firearms identification card shall be punished by a fine of not more than \$300.~~

372 ~~Section 122D. No person shall purchase or possess self defense spray who:~~

373 ~~(i) was convicted or adjudicated a youthful offender or delinquent child as defined in~~
374 ~~section 52 of chapter 119, in a court of the commonwealth, for the commission of: (A) a felony;~~
375 ~~(B) a misdemeanor punishable by imprisonment for more than 2 years; (C) a violent crime as~~

376 ~~defined in section 121; (D) a violation of a law regulating the use, possession, ownership,~~
377 ~~transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for~~
378 ~~which a term of imprisonment may be imposed; or (E) a violation of a law regulating the use,~~
379 ~~possession or sale of a controlled substance as defined in section 1 of chapter 94C including, but~~
380 ~~not limited to, a violation under said chapter 94C; provided, however, that except for the~~
381 ~~commission of a violent crime or a crime involving the trafficking of controlled substances, if the~~
382 ~~person has been so convicted or adjudicated or released from confinement, probation or parole~~
383 ~~supervision for such conviction or adjudication, whichever occurs last, for 5 or more years~~
384 ~~immediately preceding the purchase or possession, that person may purchase or possess self-~~
385 ~~defense spray;~~

386 ~~——(ii) was convicted or adjudicated a youthful offender or delinquent child, in another state~~
387 ~~or federal jurisdiction, for the commission of: (A) a felony; (B) a misdemeanor punishable by~~
388 ~~imprisonment for more than 2 years; (C) a violent crime as defined in section 121; (D) a~~
389 ~~violation of a law regulating the use, possession, ownership, transfer, purchase, sale, lease,~~
390 ~~rental, receipt or transportation of weapons or ammunition for which a term of imprisonment~~
391 ~~may be imposed; or (E) a violation of a law regulating the use, possession or sale of a controlled~~
392 ~~substance as defined in section 1 of chapter 94C; provided, however, that, except for the~~
393 ~~commission of a violent crime or a crime involving the trafficking of weapons or controlled~~
394 ~~substances, if the person has been so convicted or adjudicated or released from confinement,~~
395 ~~probation or parole supervision for such conviction or adjudication, whichever occurs last, for 5~~
396 ~~or more years immediately preceding the purchase or possession and that applicant's right or~~
397 ~~ability to possess a rifle or shotgun has been fully restored in the jurisdiction wherein the subject~~

398 ~~conviction or adjudication was entered, then that person may purchase or possess self-defense~~
399 ~~spray;~~

400 ~~(iii) has been committed to any hospital or institution for mental illness unless the person obtains,~~
401 ~~prior to purchase or possession, an affidavit of a registered physician attesting that such~~
402 ~~physician is familiar with the applicant's mental illness and that in the physician's opinion the~~
403 ~~applicant is not disabled by such an illness in a manner that should prevent the applicant from~~
404 ~~possessing self-defense spray;~~

405 ~~———(iv) is or has been under treatment for or committed based upon a finding that the person~~
406 ~~is a person with an alcohol use disorder or a substance use disorder, or both unless a licensed~~
407 ~~physician deems such person to be cured of such condition, in which case, such person may~~
408 ~~purchase or possess self-defense spray after 5 years from the date of such confinement or~~
409 ~~treatment; provided, however, that prior to such purchase or possession of self-defense spray, the~~
410 ~~applicant shall submit an affidavit issued by a licensed physician attesting that such physician~~
411 ~~knows the person's history of treatment and that in that physician's opinion the applicant is~~
412 ~~deemed cured;~~

413 ~~———(v) at the time of the application, is younger than 15 years of age;~~

414 ~~———(vi) at the time of the application, is at least 15 years of age but less than 18 years of age~~
415 ~~unless the applicant submits with the application a certificate from the applicant's parent or~~
416 ~~guardian granting the applicant permission to apply for a card;~~

417 ~~———(vii) is an alien who does not maintain lawful permanent residency;~~

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418 ~~—— (viii) is currently subject to: (1) an order for suspension or surrender issued pursuant to~~
419 ~~section 3B or 3C of chapter 209A or section 7 of chapter 258E; or (2) a permanent or temporary~~
420 ~~protection order issued pursuant to chapter 209A or section 7 of chapter 258E; or~~

421 ~~—— (ix) is currently the subject of an outstanding arrest warrant in any state or federal~~
422 ~~jurisdiction.~~

423 ~~—— Whoever purchases or possesses self defense spray in violation of this section shall be~~
424 ~~punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment in a house of~~
425 ~~correction for not less than 6 months nor more than 2 years or both such fine and imprisonment.~~

426 ~~—— SECTION 12. Paragraph (6) of section 129B of said chapter 140, as appearing in the~~
427 ~~2012 Official Edition, is hereby amended by striking out the third sentence and inserting in place~~
428 ~~thereof the following sentence:— A firearm identification card issued pursuant to clause (vi) of~~
429 ~~section 122D shall be valid to purchase and possess chemical mace, pepper spray or other~~
430 ~~similarly propelled liquid, gas or powder designed to temporarily incapacitate.~~

431 SECTION 10. Chapter 149 of the General Laws is hereby amended by inserting after
432 section 52D the following section:-

433 Section 52E. (a) For purposes of this section, the following words shall have the
434 following meanings, unless the context clearly indicates otherwise:

435 “Abuse”, (i) attempting to cause or causing physical harm; (ii) placing another in fear of
436 imminent serious physical harm; (iii) causing another to engage involuntarily in sexual relations
437 by force, threat or duress or engaging or threatening to engage in sexual activity with a
438 dependent child; (iv) engaging in mental abuse, which includes threats, intimidation or acts

439 designed to induce terror; (v) depriving another of medical care, housing, food or other
440 necessities of life; or (vi) restraining the liberty of another.

441 “Abusive behavior”, (i) any behavior constituting domestic violence, (ii) stalking in
442 violation of section 43 of chapter 265, (iii) sexual assault, which shall include a violation of
443 sections 13B, 13B½, 13B¾, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24, 24B, 26D, 50 or 51
444 of chapter 265 or sections 3 or 35A of chapter 272 and (iv) kidnapping in violation of the third
445 paragraph of section 26 of chapter 265.

446 “Domestic violence”, abuse against an employee or the employee’s family member by:
447 (i) a current or former spouse of the employee or the employee’s family member; (ii) a person
448 with whom the employee or the employee’s family member shares a child in common; (iii) a
449 person who is cohabitating with or has cohabitated with the employee or the employee’s family
450 member; (iv) a person who is related by blood or marriage to the employee; or (v) a person with
451 whom the employee or employee’s family member has or had a dating or engagement
452 relationship.

453 “Employees”, individuals who perform services for and under the control and direction of
454 an employer for wages or other remuneration.

455 “Family member”, (i) persons who are married to one another; (ii) persons in a
456 substantive dating or engagement relationship and who reside together; (iii) persons having a
457 child in common regardless of whether they have ever married or resided together; (iv) a parent,
458 step-parent, child, step-child, sibling, grandparent or grandchild; or (v) persons in a guardianship
459 relationship.

460 (b) An employer shall permit an employee to take up to 15 days of leave from work in
461 any 12 month period if:

462 (i) the employee, or a family member of the employee, is a victim of abusive behavior;

463 (ii) the employee is using the leave from work to: seek or obtain medical attention,
464 counseling, victim services or legal assistance; secure housing; obtain a protective order from a
465 court; appear in court or before a grand jury; meet with a district attorney or other law
466 enforcement official; or attend child custody proceedings or address other issues directly related
467 to the abusive behavior against the employee or family member of the employee; and

468 (iii) the employee is not the perpetrator of the abusive behavior against such employee's
469 family member.

470 The employer shall have sole discretion to determine whether any leave taken under this
471 section shall be paid or unpaid.

472 (c) This section shall apply to employers who employ 50 or more employees.

473 (d) Except in cases of imminent danger to the health or safety of an employee, an
474 employee seeking leave from work under this section shall provide appropriate advance notice of
475 the leave to the employer as required by the employer's leave policy.

476 If there is a threat of imminent danger to the health or safety of an employee or the
477 employee's family member, the employee shall not be required to provide advanced notice of
478 leave; provided, however, that the employee shall notify the employer within 3 workdays that the
479 leave was taken or is being taken under this section. Such notification may be communicated to
480 the employer by the employee, a family member of the employee or the employee's counselor,

481 social worker, health care worker, member of the clergy, shelter worker, legal advocate or other
482 professional who has assisted the employee in addressing the effects of the abusive behavior on
483 the employee or the employee's family member.

484 If an unscheduled absence occurs, an employer shall not take any negative action against
485 the employee if the employee, within 30 days from the unauthorized absence or within 30 days
486 from the last unauthorized absence in the instance of consecutive days of unauthorized absences,
487 provides any of the documentation described in paragraphs (1) to (7), inclusive, of subsection
488 (e).

489 (e) An employer may require an employee to provide documentation evidencing that the
490 employee or employee's family member has been a victim of abusive behavior and that the leave
491 taken is consistent with the conditions of clauses (i) to (iii), inclusive, of subsection (b);
492 provided, however, that an employer shall not require an employee to show evidence of an arrest,
493 conviction or other law enforcement documentation for such abusive behavior. An employee
494 shall provide such documentation to the employer within a reasonable period after the employer
495 requests documentation relative to the employee's absence. An employee shall satisfy this
496 documentation requirement by providing any 1 of the following documents to the employer.

497 (1) A protective order, order of equitable relief or other documentation issued by a court
498 of competent jurisdiction as a result of abusive behavior against the employee or employee's
499 family member.

500 (2) A document under the letterhead of the court, provider or public agency which the
501 employee attended for the purposes of acquiring assistance as it relates to the abusive behavior
502 against the employee or the employee's family member.

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503 (3) A police report or statement of a victim or witness provided to police, including a
504 police incident report, documenting the abusive behavior complained of by the employee or the
505 employee's family member.

506 (4) Documentation that the perpetrator of the abusive behavior against the employee or
507 family member of the employee has: admitted to sufficient facts to support a finding of guilt of
508 abusive behavior; or has been convicted of, or has been adjudicated a juvenile delinquent by
509 reason of, any offense constituting abusive behavior and which is related to the abusive behavior
510 that necessitated the leave under this section.

511 (5) Medical documentation of treatment as a result of the abusive behavior complained of
512 by the employee or employee's family member.

513 (6) A sworn statement, signed under the penalties of perjury, provided by a counselor,
514 social worker, health care worker, member of the clergy, shelter worker, legal advocate or other
515 professional who has assisted the employee or the employee's family member in addressing the
516 effects of the abusive behavior.

517 (7) A sworn statement, signed under the penalties of perjury, from the employee attesting
518 that the employee has been the victim of abusive behavior or is the family member of a victim of
519 abusive behavior. Any documentation provided to an employer under this section may be
520 maintained by the employer in the employee's employment record but only for as long as
521 required for the employer to make a determination as to whether the employee is eligible for
522 leave under this section.

523 (f) All information related to the employee's leave under this section shall be kept
524 confidential by the employer and shall not be disclosed, except to the extent that disclosure is:

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- 525 (i) requested or consented to, in writing, by the employee;
- 526 (ii) ordered to be released by a court of competent jurisdiction;
- 527 (iii) otherwise required by applicable federal or state law;
- 528 (iv) required in the course of an investigation authorized by law enforcement, including,
- 529 but not limited to, an investigation by the attorney general; or
- 530 (v) necessary to protect the safety of the employee or others employed at the workplace.

531 (g) An employee seeking leave under this section shall exhaust all annual or vacation
532 leave, personal leave and sick leave available to the employee, prior to requesting or taking leave
533 under this section, unless the employer waives this requirement.

534 (h) No employer shall coerce, interfere with, restrain or deny the exercise of, or any
535 attempt to exercise, any rights provided under this section or to make leave requested or taken
536 hereunder contingent upon whether or not the victim maintains contact with the alleged abuser.

537 (i) No employer shall discharge or in any other manner discriminate against an employee
538 for exercising the employee's rights under this section. The taking of leave under this section
539 shall not result in the loss of any employment benefit accrued prior to the date on which the leave
540 taken under this section commenced. Upon the employee's return from such leave, the employee
541 shall be entitled to restoration to the employee's original job or to an equivalent position.

542 (j) The attorney general shall enforce this section and may seek injunctive relief or other
543 equitable relief to enforce this section.

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544 (k) Employers with 50 or more employees shall notify each employee of the rights and
545 responsibilities provided by this section including those related to notification requirements and
546 confidentiality.

547 (l) This section shall not be construed to exempt an employer from complying with
548 chapter 258B, section 14B of chapter 268 or any other general or special law or to limit the rights
549 of any employee under said chapter 258B, said section 14B of chapter 268 or any other general
550 or special law.

551 (m) Any benefit received from this section shall not be considered relevant in any
552 criminal or civil proceeding as it relates to the alleged abuse unless, after a hearing, a justice of
553 the district, superior or probate court determines that such benefit is relevant to the allegations.

554 SECTION 11. Section 150 of said chapter 149, as appearing in the 2012 Official Edition,
555 is hereby amended by inserting after the figure “33E”, in line 20, the following figure:- , 52E.

556 SECTION 12. Section 3 of chapter 209A of the General Laws, as so appearing, is hereby
557 amended by striking out, in line 149, the word “except” and inserting in place thereof the
558 following words:- including.

559 SECTION 13. Said section 3 of said chapter 209A, as so appearing, is hereby further
560 amended by inserting after the word “support”, in line 149, the following words:- ; provided,
561 however, that upon issuing an order for custody or support, the superior, district or Boston
562 municipal court shall provide a copy of the order to the probate and family court department of
563 the trial court that issued the prior or pending custody or support order immediately; provided
564 further, that such order for custody or support shall be for a fixed period of time, not to exceed
565 30 days; and provided further, that such order may be superseded by a subsequent custody or

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566 support order issued by the probate and family court department, which shall retain final
567 jurisdiction over any custody or support order. This section shall not be interpreted to mean that
568 superior, district or Boston municipal court judges are prohibited or discouraged from ordering
569 all other necessary relief or issuing the custody and support provisions of orders pursuant to this
570 chapter for the full duration permitted under subsection (c).

571 SECTION 14. The second paragraph of section 7 of said chapter 209A, as so appearing,
572 is hereby amended by inserting, after the first sentence the following sentence:- Law
573 enforcement agencies shall establish adequate procedures to ensure that, when effecting service
574 upon a defendant pursuant to this paragraph, a law enforcement officer shall, to the extent
575 practicable: (i) fully inform the defendant of the contents of the order and the available penalties
576 for any violation of an order or terms thereof and (ii) provide the defendant with informational
577 resources, including, but not limited to, a list of certified batterer intervention programs,
578 substance abuse counseling, alcohol abuse counseling and financial counseling programs located
579 within or near the court's jurisdiction.

580 SECTION 15. Said section 7 of said chapter 209A, as so appearing, is hereby further
581 amended by inserting after the word "order", in line 50, the following words:- , or as a condition
582 of a continuance without a finding.

583 SECTION 16. Subsection (a) of section 3 of chapter 209C of the General Laws, as so
584 appearing, is hereby amended by adding the following sentence:- No court shall make an order
585 providing visitation rights to a parent who was convicted of rape, under sections 22 to 23B,
586 inclusive, of chapter 265 or section 2, 3, 4 or 17 of chapter 272, and is seeking to obtain
587 visitation with the child who was conceived during the commission of that rape, unless the judge

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588 determines that such child is of suitable age to signify the child's assent and the child assents to
589 such order and that assent is in the best interest of the child; provided, however, that a court may
590 make an order providing visitation rights to a parent convicted of rape under section 23 of said
591 chapter 265, if (i) visitation is in the best interest of the child and (ii) either the other parent of
592 the child conceived during the commission of that rape has reached the age of 18 and said parent
593 consents to such visitation or the judge makes an independent determination that visitation is in
594 the best interest of the child .

595 SECTION 17. The first paragraph of subsection (e) of section 10 of said chapter 209C, as
596 so appearing, is hereby amended by adding the following sentence:- For the purposes of this
597 section, if the child was conceived during the commission of a rape and the parent was convicted
598 of said rape, under sections 22 to 23B, inclusive, of chapter 265 or section 2, 3, 4 or 17 of
599 chapter 272, said conviction shall be conclusive evidence of a serious incident of abuse by the
600 convicted parent.

601 SECTION 18. Chapter 211B of the General Laws is hereby amended by inserting after
602 section 9A the following section:-

603 Section 9B. The chief justice of the trial court department shall provide training on the
604 issue of domestic violence and sexual violence in the commonwealth, at least once biannually, to
605 all appropriate court personnel of the municipal, district, probate and family, juvenile and
606 superior courts throughout the commonwealth, including but not limited to judges, clerks of
607 court, probation officers, court officers, security officers and guardians ad litem. Such training
608 shall include, but not be limited to, the dissemination of information concerning:

609 (1) misdemeanor and felony offenses in which domestic violence and sexual violence are
610 often involved;

611 (2) the civil rights and remedies available to victims of domestic violence and sexual
612 violence;

613 (3) methods for assessing the degree of risk of homicide involved in situations of
614 domestic violence, including, but not limited to, gathering information from the victim regarding
615 the suspect's past reported and non-reported behavior and dangerousness, such as : (i) whether
616 the suspect has ever used a weapon against the victim or threatened the victim with a weapon,
617 (ii) whether the suspect owns a gun; (iii) whether the suspect's physical violence against the
618 victim has increased in severity or frequency; (iv) whether the suspect has threatened to kill the
619 victim; (v) whether the suspect has ever threatened or attempted suicide; (vi) whether the suspect
620 has used or threatened physical violence against the victim's family, other household members or
621 pets; (vii) whether the suspect uses illegal drugs; (viii) whether the suspect abuses alcohol; and
622 (ix) whether there have been specific instances of strangulation or suffocation of the victim by
623 the suspect;

624 (4) law enforcement techniques, information sharing and methods of promoting
625 cooperation among the various court departments in combating domestic violence and sexual
626 violence, including the importance of keeping victims informed as to the whereabouts of
627 suspected abusers and other such information helpful for victim safety planning;

628 (5) the physiological and psychological effects of the pattern of domestic violence and
629 sexual violence on its victims, including children, who witness such abuse;

630 (6) the increased vulnerability of victims who are gay, lesbian, bisexual, transgender,
631 low-income, minority or immigrant, and including training on ways in which the indicators of
632 dangerousness in these communities may be different from those in non-marginalized
633 communities;

634 (7) the dynamics of coercive controlling behavior that increases dangerousness even
635 when such patterns of behavior are not themselves violent;

636 (8) the underlying psychological and sociological causes of domestic violence and sexual
637 violence and the availability of batterer's intervention programs;

638 (9) the availability of community based domestic violence, rape and sexual assault shelter
639 and support services within the commonwealth, including, to the extent practicable, specific
640 shelter and support services available in a court's geographical area; and

641 (10) techniques for increasing cooperation and immediate data sharing among different
642 areas of law enforcement and the court system in combating domestic violence and sexual
643 violence.

644 The chief justice of the trial court may appoint such expert, clerical and other staff
645 members as the operation of the training program may require. As appropriate, the training
646 presenters shall include domestic violence and sexual violence experts with expertise in the
647 delivery of direct services to victims of domestic violence and sexual violence, including
648 utilizing community based domestic violence, rape and sexual assault service providers and
649 survivors of domestic violence, rape or sexual assault in the presentation of the training.

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650 SECTION 19. Section 26 of chapter 218 of the General Laws, as appearing in the 2012
651 Official Edition, is hereby amended by striking out, in line 18, the words “fifteen A and twenty-
652 one A” and inserting in place thereof the following words:- 15A, 15D, 21A and 26 .

653 SECTION 20. The first paragraph of section 8 of chapter 258B of the General Laws, as
654 so appearing, is hereby amended by inserting after the third sentence the following sentence:-
655 The court shall impose an additional domestic violence prevention and victim assistance
656 assessment of \$50 for: (i) any violation of an order issued pursuant to sections 18 or 34B of
657 chapter 208, section 32 of chapter 209, sections 3, 4 or 5 of chapter 209A or section 15 or 20 of
658 chapter 209C; (ii) a conviction or adjudication for an act which would constitute abuse, as
659 defined in section 1 of chapter 209A; or (iii) a violation of section 13M or 15D of chapter 265,
660 which shall be deposited in the Domestic and Sexual Violence Prevention and Victim Assistance
661 Fund, established in section 20 of chapter 17.

662 SECTION 21. Said section 8 of said chapter 258B, as so appearing, is hereby further
663 amended by striking out the seventh sentence and inserting in place thereof the following
664 sentence:-

665 If it is determined by a written finding of fact that an assessment, other than for a civil
666 motor vehicle infraction imposed by this section would impose a severe financial hardship upon
667 the person against whom the assessment is imposed, the court may waive the fee or structure a
668 payment plan in order to ensure compliance with payment; provided, however, that the court
669 may order a person required to pay a domestic violence prevention and victim assistance
670 assessment to complete at least 8 hours of community service in order to satisfy such assessment,
671 if a structured payment would continue to impose a severe financial hardship.

672 SECTION 22. Said section 8 of said chapter 258B, as so appearing, is hereby further
673 amended by inserting after the word “assessment”, in line 50, the following words:- and the
674 domestic violence prevention and victim assistance assessment .

675 SECTION 23. Chapter 265 of the General Laws is hereby amended by striking out
676 section 13M, as so appearing, and inserting in place thereof the following section:-

677 Section 13M. (a) Whoever commits an assault or assault and battery on a family or
678 household member shall be punished by imprisonment in the house of correction for not more
679 than 2 ½ years or by a fine of not more than \$5,000, or both such fine and imprisonment.

680 (b) Whoever is convicted of a second or subsequent offense of assault or assault and
681 battery on a family or household member shall be punished by imprisonment in the house of
682 correction for not more than 2 ½ years or by imprisonment in the state prison for not more than
683 5 years.

684 (c) For the purposes of this section, “family or household member” shall mean persons
685 who (i) are or were married to one another, (ii) have a child in common regardless of whether
686 they have ever married or lived together or (iii) are or have been in a substantive dating or
687 engagement relationship; provided, that the trier of fact shall determine whether a relationship is
688 substantive by considering the following factors: the length of time of the relationship; the type
689 of relationship; the frequency of interaction between the parties; whether the relationship was
690 terminated by either person; and the length of time elapsed since the termination of the
691 relationship.

692 (d) For any violation of this section, or as a condition of a continuance without a finding,
693 the court shall order the defendant to complete a certified batterer’s intervention program unless,

694 upon good cause shown, the court issues specific written findings describing the reasons that
695 batterer's intervention should not be ordered or unless the batterer's intervention program
696 ~~determination~~determines that the defendant is not suitable for intervention.

697 SECTION 24. Said chapter 265 is hereby further amended by inserting after section 15C
698 the following section:-

699 Section 15D. (a) For the purposes of this section the following words shall have the
700 following meanings, unless the context clearly indicates otherwise:

701 "Serious bodily injury", bodily injury that results in a permanent disfigurement, loss or
702 impairment of a bodily function, limb or organ or creates a substantial risk of death.

703 "Strangulation", the intentional interference of the normal breathing or circulation of
704 blood by applying substantial pressure on the throat or neck of another.

705 "Suffocation", the intentional interference of the normal breathing or circulation of blood
706 by blocking the nose or mouth of another.

707 (b) Whoever strangles or suffocates another person shall be punished by imprisonment in
708 state prison for not more than 5 years or in the house of correction for not more than 2 ½ years,
709 or by a fine of not more than \$5,000, or by both such fine and imprisonment.

710 (c) Whoever: (i) strangles or suffocates another person and by such strangulation or
711 suffocation causes serious bodily injury; (ii) strangles or suffocates another person, who is
712 pregnant at the time of such strangulation or suffocation, knowing or having reason to know that
713 the person is pregnant; (iii) is convicted of strangling or suffocating another person after having
714 been previously convicted of the crime of strangling or suffocating another person under this

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715 section, or of a like offense in another state or the United States or a military, territorial or Indian
716 tribal authority; or (iv) strangles or suffocates another person, with knowledge that the individual
717 has an outstanding temporary or permanent vacate, restraining or no contact order or judgment
718 issued under sections 18 or 34B of chapter 208, section 32 of chapter 209, sections 3, 4 or 5 of
719 chapter 209A or sections 15 or 20 of chapter 209C , in effect against such person at the time the
720 offense is committed, shall be punished by imprisonment in state prison for not more than 10
721 years, or in the house of correction for not more than 2½ years, and by a fine of not more than
722 \$10,000.

723 (d) For any violation of this section, or as a condition of a continuance without a finding,
724 the court shall order the defendant to complete a certified batterer's intervention program unless,
725 upon good cause shown, the court issues specific written findings describing the reasons that
726 batterer's intervention should not be ordered or unless the batterer's invention program
727 ~~determination~~determines that the defendant is not suitable for intervention.

728 SECTION 25. Section 20D of chapter 276 of the General Laws, as appearing in the 2012
729 Official Edition, is hereby amended by inserting after the word "governor", in line 8, the
730 following words:- ; provided, however, that if such person is arrested for a crime committed in
731 the commonwealth, any bail by bond or undertaking shall be assessed pursuant to sections 42,
732 42A, 57, 58 and 58A.

733 SECTION 26. Section 42 of said chapter 276, as so appearing, is hereby amended by
734 inserting after the word 'trial', in line 6, the following words:- ; provided, however, that if a
735 person is arrested for a violation of an order issued pursuant to section 18 or 34B of chapter 208,
736 section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C

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737 or any act that would constitute abuse, as defined in section 1 of chapter 209A, or a violation of
738 sections 13M or 15D of chapter 265, any bail shall be assessed pursuant sections 42A, 57, 58 and
739 58A.

740 SECTION 27. Section 42A of said chapter 276, as so appearing, is hereby amended by
741 inserting after the word “of”, in line 7, the following words:- bail or.

742 SECTION 28. Said section 42A of said chapter 276, as so appearing, is hereby further
743 amended by inserting after the first paragraph the following 3 paragraphs:-

744 Except where prohibited by section 57, for any violation of an order issued pursuant to
745 section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section
746 15 or 20 of chapter 209C or any act that would constitute abuse, as defined in section 1 of said
747 chapter 209A, or a violation of sections 13M or 15D of chapter 265, a person arrested, who has
748 attained the age of 18 years, shall not be admitted to bail sooner than 6 hours after arrest, except
749 by a judge in open court. Any person authorized to take bail for such violation under this section
750 may impose conditions on a person’s release in order to ensure the appearance of the person
751 before the court and the safety of the alleged victim, any other individual or the community;
752 provided, however, that the person authorized to take bail shall prior to admitting the person to
753 bail, modifying an existing order of bail or imposing such conditions, have immediate access to
754 all pending and prior criminal offender record information, board of probation records and police
755 and incident reports related to the person detained, upon oral, telephonic, facsimile or electronic
756 mail request, to the extent practicable, and shall take into consideration the following: the nature
757 and circumstances of the offense charged, the potential penalty the person faces, the person’s
758 family ties, employment record and history of mental illness, the person’s reputation, the risk

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759 that the person will obstruct or attempt to obstruct justice or threaten, injure or intimidate or
760 attempt to threaten, injure or intimidate a prospective witness or juror, the person's record of
761 convictions, if any, any illegal drug distribution or present drug dependency, whether the person
762 is on bail pending adjudication of a prior charge, whether the acts alleged involve abuse, as
763 defined in said section 1 of said chapter 209A, a violation of a temporary or permanent order
764 issued pursuant to said sections 18 or 34B of said chapter 208, said section 32 of said chapter
765 209, said sections 3, 4 or 5 of said chapter 209A or said sections 15 or 20 of said chapter 209C,
766 whether the person has any history of issuance of such orders pursuant to the aforesaid sections,
767 whether the person is on probation, parole or other release pending completion of sentence for
768 any conviction and whether the person is on release pending sentence or appeal for any
769 conviction.

770 The person shall, prior to admittance to bail, with or without conditions, be provided with
771 informational resources related to domestic violence by the person admitting the arrestee to bail,
772 which shall include, but not be limited to, a list of certified batterer intervention programs
773 located within or near the court's jurisdiction. If the defendant is released on bail from the place
774 of detention, a reasonable attempt shall be made to notify the victim of the defendant's release by
775 the arresting police department. If the defendant is released on bail by order of a court, a
776 reasonable attempt shall be made to notify the victim of the defendant's release by the district
777 attorney.

778 The commonwealth shall be the only party permitted to move for arraignment, within 3
779 hours of a complaint being signed by a magistrate or a magistrate's designee, for a person
780 charged with violation of said sections 18 or 34B of said chapter 208, said section 32 of chapter

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781 209, said sections 3, 4 or 5 of said chapter 209A or said sections 15 or 20 of said chapter 209C or
782 was a violation of said sections 13M or 15D of said chapter 265.

783 SECTION 29. Section 55 of said chapter 276, as so appearing, is hereby amended by
784 inserting after the word “felony”, in line 5, the following words:- , or is a violation of an order
785 issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5
786 of chapter 209A or section 15 or 20 of chapter 209C, a violation of sections 13M or 15D of
787 chapter 265 or would otherwise constitute abuse, as defined in section 1 of said chapter 209A.

788 SECTION 30. Said chapter 276 is hereby further amended by inserting after section 56
789 the following section:-

790 Section 56A. Before a judge of the superior court, district court or Boston municipal
791 court releases, discharges or admits to bail any person arrested and charged with a crime against
792 the person or property of another, the judicial officer shall inquire of the commonwealth as to
793 whether abuse, as defined in section 1 of chapter 209A, is alleged to have occurred immediately
794 prior to or in conjunction with the crime for which the person was arrested and charged. The
795 commonwealth shall file a preliminary written statement if it is alleged that abuse has so
796 occurred. The judicial officer shall make a written ruling that abuse is alleged in connection with
797 the charged offense. Such preliminary written statement shall be maintained within the statewide
798 domestic violence record keeping system. Such preliminary written statement shall not be
799 considered criminal offender record information or public records and shall not be open for
800 public inspection. Such preliminary written statement shall not be admissible in any investigation
801 or proceeding before a grand jury or court of the commonwealth related to the crime for which
802 the person was brought before the court.

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803 If the defendant has been found not guilty by the court or jury, or a no bill has been
804 returned by the grand jury or a finding of no probable cause has been made by the court, the
805 court shall remove the preliminary written statement from the statewide domestic violence record
806 keeping system; provided however, that a dismissal shall not be eligible for removal from the
807 statewide domestic record keeping system.

808 Nothing in this section shall be construed as modifying or limiting the presumption of
809 innocence.

810 SECTION 31. Section 57 of said chapter 276, as appearing in the 2012 Official Edition,
811 is hereby amended by inserting after the first paragraph the following 3 paragraphs:-

812 Except where prohibited by this section, for any violation of an order issued pursuant to
813 section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section
814 15 or 20 of chapter 209C or any act that would constitute abuse, as defined in section 1 of said
815 chapter 209A, or a violation of sections 13M or 15D of chapter 265, a person arrested, who has
816 attained the age of 18 years, shall not be admitted to bail sooner than 6 hours after arrest, except
817 | by a judge in open court. ~~The clerk, assistant clerk or other~~Any person authorized to take bail for
818 | such violation may impose conditions on a person's release in order to ensure the appearance of
819 | the person before the court and the safety of the alleged victim, any other individual or the
820 | community; provided, however, that the ~~judge, clerk, assistant clerk or other~~person authorized to
821 | take bail shall, prior to admitting the person to bail, modifying an existing order of bail or
822 | imposing such conditions, have immediate access to all pending and prior criminal offender
823 | record information, board of probation records and police and incident reports related to the
824 | person detained, upon oral, telephonic, facsimile or electronic mail request, to the extent

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825 practicable, and shall take into consideration the following: the nature and circumstances of the
826 offense charged, the potential penalty the person faces, the person's family ties, employment
827 record and history of mental illness, the person's reputation, the risk that the person will obstruct
828 or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or
829 intimidate a prospective witness or juror, the person's record of convictions, if any, any illegal
830 drug distribution or present drug dependency, whether the person is on bail pending adjudication
831 of a prior charge, whether the acts alleged involve abuse, as defined in said section 1 of said
832 chapter 209A, a violation of a temporary or permanent order issued pursuant to said sections 18
833 or 34B of said chapter 208, said section 32 of said chapter 209, said sections 3, 4 or 5 of said
834 chapter 209A or said sections 15 or 20 of said chapter 209C, whether the person has any history
835 of issuance of such orders pursuant to the aforesaid sections, whether the person is on probation,
836 parole or other release pending completion of sentence for any conviction and whether the
837 person is on release pending sentence or appeal for any conviction.

838 The person shall, prior to admittance to bail, with or without conditions, be provided with
839 informational resources related to domestic violence by the person admitting the arrestee to bail,
840 which shall include, but not be limited to, a list of certified batterer intervention programs
841 located within or near the court's jurisdiction. If the defendant is released on bail from the place
842 of detention, a reasonable attempt shall be made to notify the victim of the defendant's release by
843 the arresting police department. If the defendant is released on bail by order of a court, a
844 reasonable attempt shall be made to notify the victim of the defendant's release by the district
845 attorney.

846 The commonwealth shall be the only party permitted to move for arraignment, within 3
847 hours of a complaint being signed by a magistrate or a magistrate's designee, for a person

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848 charged with violation of said sections 18 or 34B of said chapter 208, said section 32 of chapter
849 209, said sections 3, 4 or 5 of said chapter 209A or said sections 15 or 20 of said chapter 209C or
850 was a violation of said sections 13M or 15D of said chapter 265.

851 SECTION 32. Section 58 of said chapter 276, as so appearing, is hereby amended by
852 inserting after the first paragraph the following 3 paragraphs:-

853 Except where prohibited by section 57, for any violation of an order issued pursuant to
854 section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A or section
855 15 or 20 of chapter 209C or any act that would constitute abuse, as defined in section 1 of said
856 chapter 209A, or a violation of sections 13M or 15D of chapter 265, a person arrested, who has
857 attained the age of 18 years, shall not be admitted to bail sooner than 6 hours after arrest, except
858 | by a judge in open court. ~~The clerk, assistant clerk or other~~Any person authorized to take bail for
859 | such violation may impose conditions on a person's release in order to ensure the appearance of
860 | the person before the court and the safety of the alleged victim, any other individual or the
861 | community; provided, however, that the ~~clerk, assistant clerk or other~~ person authorized to take
862 | bail shall, prior to admitting the person to bail, modifying an existing order of bail or imposing
863 | such conditions, have immediate access to all pending and prior criminal offender record
864 | information, board of probation records and police and incident reports related to the person
865 | detained, upon oral, telephonic, facsimile or electronic mail request, to the extent practicable.

866 The person shall, prior to admittance to bail, with or without conditions, be provided with
867 informational resources related to domestic violence by the person admitting the arrestee to bail,
868 which shall include, but is not limited to, a list of certified batterer intervention programs located
869 within or near the court's jurisdiction. If the defendant is released on bail from the place of

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870 detention, a reasonable attempt shall be made to notify the victim of the defendant's release by
871 the arresting police department. If the defendant is released on bail by order of a court, a
872 reasonable attempt shall be made to notify the victim of the defendant's release by the district
873 attorney.

874 The commonwealth shall be the only party permitted to move for arraignment, within 3
875 hours of a complaint being signed by a magistrate or a magistrate's designee, for a person
876 charged with violation of said sections 18 or 34B of said chapter 208, said section 32 of chapter
877 209, said sections 3, 4 or 5 of said chapter 209A or said sections 15 or 20 of said chapter 209C or
878 was a violation of said sections 13M or 15D of said chapter 265.

879 SECTION 33. Section 58A of said chapter 276, as so appearing, is hereby amended by
880 striking out, in line 92, the word "ninety" and inserting in place thereof the following figure:-
881 120.

882 SECTION 34. The second paragraph of subsection (4) of said section 58A of said chapter
883 276, as so appearing, is hereby amended by inserting after the fifth sentence the following
884 sentence:- Prior to the summons of an alleged victim, or a member of the alleged victim's family,
885 to appear as a witness at the hearing, the person shall demonstrate to the court a good faith basis
886 for the person's reasonable belief that the testimony from the witness will be material and
887 relevant to support a conclusion that there are conditions of release that will reasonably assure
888 the safety of any other person or the community.

889 SECTION 35. Said section 58A of said chapter 276, as so appearing, is hereby further
890 amended by inserting after the word "hearing", in line 115, the following words:- and the judge

891 shall consider hearsay contained in a police report or the statement of an alleged victim or
892 witness.

893 SECTION 36. The second paragraph of subsection (4) of said section 58A of said chapter
894 276, as so appearing, is hereby amended by striking out the last sentence and inserting in place
895 thereof the following sentence:- The hearing may be reopened by the judge, at any time before
896 trial, or upon a motion of the commonwealth or the person detained if the judge finds that: (i)
897 information exists that was not known at the time of the hearing or that there has been a change
898 in circumstances and (ii) that such information or change in circumstances has a material bearing
899 on the issue of whether there are conditions of release that will reasonably assure the safety of
900 any other person or the community.

901 SECTION 37. Said section 58A of said chapter 276, as so appearing, is hereby further
902 amended by inserting after the word “conviction”, in lines 153 and 154, the following words:- ;
903 provided, however, that if the person who has attained the age of 18 years is held under arrest for
904 a violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter
905 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C or any act that would
906 constitute abuse, as defined in section 1 of said chapter 209A, or a violation of sections 13M or
907 15D of chapter 265, said justice shall make a written determination as to the considerations
908 required by this subsection which shall be filed in the domestic violence record keeping system.

909 SECTION 38. Said section 58A of said chapter 276, as so appearing, is hereby further
910 amended by adding the following subsection:-

911 (8) If after a hearing under subsection (4) detention under subsection (3) is ordered or
912 pretrial release subject to conditions under subsection (2) is ordered, then: (A) the clerk shall

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913 immediately notify the probation officer of the order; and (B) the order of detention under
914 subsection (3) or order of pretrial release subject to conditions under subsection (2) shall be
915 recorded in (i) the defendant's criminal record as compiled by the commissioner of probation
916 under section 100 and (ii) the domestic violence record keeping system.

917 SECTION 39. Section 58B of said chapter 276, as so appearing, is hereby amended by
918 striking out, in line 2, the words "section 58 or section 58A" and inserting in place there of the
919 following words:- sections 42A, 58, 58A or 87.

920 SECTION 40. The court administrator shall, in consultation with the executive office of
921 public safety and security adopt rules and regulations for the standardization and dissemination
922 to the district attorney, assistant district attorney, defense counsel and presiding justice, of an
923 individual's criminal and civil court history, which shall include, at a minimum: (4i) a record of a
924 dangerousness hearing pursuant to section 58A of chapter 276 of the General Laws, whether or
925 not a dangerousness determination was made; (2ii) pretrial detention or release conditions as
926 agreed to pursuant to said section 58A of said chapter 276; (3iii) all temporary or permanent
927 restraining orders and affidavits issued pursuant to section 18 or 34B of chapter 208 of the
928 General Laws, section 32 of chapter 209 of the General Laws, section 3, 4 or 5 of chapter 209A
929 of the General Laws or section 15 or 20 of chapter 209C of the General Laws; (4iv) any
930 violation of such temporary or permanent restraining orders; (5v) a misdemeanor or felony
931 involving abuse, as defined in section 1 of said chapter 209A; (6vi) any written findings of fact
932 issued pursuant to sections 42A, 56A, 57, 58 and 58A of said chapter 276; (7vii) any records
933 concerning persons on probation maintained by the commissioner of probation pursuant to
934 section 100 of said chapter 276, including any out-of-state criminal record; (8viii) any other
935 information maintained in and disseminated in accordance with the statewide domestic violence

936 | record keeping system maintained by the commissioner of probation; and (9ix) updating the
937 | collection, storage, access, dissemination, content and use of criminal offender record
938 | information to reflect the inclusion of dangerousness hearing information pursuant to subsection
939 | (8) of said section 58A of said chapter 276.

940 | SECTION 41. The chief administrator of the trial court department, in conjunction with
941 | the commissioner of probation, the Massachusetts office for victim assistance, the colonel of
942 | state police, Jane Doe, Inc., and local community-based domestic violence, rape, and sexual
943 | assault service providers selected by Jane Doe, Inc., shall develop and implement, subject to
944 | appropriation, a program for the dissemination of information on domestic violence and sexual
945 | violence prevention services available within each county to: (i) individuals filing a complaint
946 | pursuant to sections 3, 4 or 5 of chapter 209A of the General Laws; (ii) parties subject to an
947 | order issued pursuant to section 18 or 34B of chapter 208 of the General Laws, section 32 of
948 | chapter 209 of the General Laws, said chapter 209A or section 15 or 20 of chapter 209C of the
949 | General Laws; (iii) persons held under arrest for an offense set forth in subsection (1) of section
950 | 58A chapter 276 of the General Laws, which involves abuse, as defined in section 1 of said
951 | chapter 209A; and (iv) any other similarly situated individual accessing a court within that
952 | county.

953 | SECTION 42. The department of elementary and secondary education shall, subject to
954 | appropriation, develop and produce educational materials on domestic violence, teen dating
955 | violence and healthy relationships, which shall be distributed annually to students in grades 9 to
956 | 12, inclusive. Such educational materials shall be utilized as part of the required health
957 | curriculum on safe and healthy relationships required by section 1 of chapter 71 of the General
958 | Laws.

959 SECTION 43. The department of public health shall ensure that not less than the amount
960 credited to the Domestic and Sexual Violence Prevention and Victim Assistance Fund, under
961 section 20 of chapter 17 of the General Laws, shall be expended to support innovative services to
962 prevent domestic and sexual violence and assist victims of domestic and sexual violence in the
963 commonwealth provided through item 4513-1130 of the Massachusetts management and
964 accounting reporting system.

965 SECTION 47. There shall be a special commission to examine the housing and shelter
966 options available to victims of domestic violence and sexual violence and explore various
967 options for expanding such resources through legislation. As a part of its study, the commission
968 shall examine: (i) existing housing options for victims of domestic violence and sexual violence;
969 (ii) innovative housing options for victims of domestic violence and sexual violence, including,
970 but not limited to , the feasibility and costs associated with establishing a tax incentive that
971 would be available to hotels and motels offering free rooms to victims of domestic violence and
972 sexual violence; (iii) the feasibility of creating a database of available housing options for
973 domestic violence and sexual violence victims, including participating hotels and motels,
974 through the Massachusetts office of victim assistance which would be made available only to
975 victim advocacy groups that directly assist domestic violence and sexual violence victims in
976 obtaining housing; (iv) the variation of experiences, needs and outcomes for victims of increased
977 vulnerability who are gay, lesbian, bisexual, transgender, low-income, minority or immigrant; (v)
978 best practices from other states on housing alternatives for victims of domestic violence and
979 sexual violence . The commission shall consist of: the executive director of the Massachusetts
980 office of victim assistance or designee, who shall serve as chair; the secretary of public safety or
981 a designee; the secretary of housing and community development or a designee; the

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982 commissioner of public health or a designee; the commissioner of children and families or a
983 designee; the commissioner of transitional assistance or a designee; the commissioner of revenue
984 or a designee; 2 members of the senate, 1 of whom shall be appointed by the senate minority
985 leader; 2 members of the house of representatives, 1 of whom shall be appointed by the minority
986 leader of the house of representatives; the president of the Massachusetts District Attorneys'
987 Association or designee; a representative of the Massachusetts Lodging Association; and 3
988 members of victim advocacy groups, appointed by the governor. The commission shall submit
989 its report and findings, along with any draft of legislation, to the house and senate committees on
990 ways and means, the joint committee on the judiciary, the joint committee on children, families
991 and persons with disabilities, and the clerks of the house of representatives and the senate, not
992 later than June 30, 2015.

993 SECTION 48. The executive office of public safety and security shall adopt rules and
994 regulations ensuring that records of previous hearings conducted pursuant to section 58A of
995 chapter 276 of the General Laws, if the defendant was detained prior to trial or released with
996 conditions pursuant to paragraph (2) of said section 58A of said chapter 276, shall not be
997 included in any criminal offender record information available to persons other than criminal
998 justice agencies, unless the criminal charge to which the hearing relates resulted in a felony or
999 misdemeanor conviction and would otherwise be available to such person pursuant to section
1000 172 of chapter 6 of the General Laws, or any other applicable statute or regulation.

1001 SECTION 49. The executive office of public safety and security, in conjunction with the
1002 district attorneys, shall develop a report to be filed with the clerks of the house of representative
1003 and senate, the house and senate committees on ways and means, the joint committee on public
1004 safety and homeland security and the joint committee on the judiciary. The report shall contain,

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1005 but not be limited to, comprehensive information and statistics related to domestic violence
1006 crimes and arrests and prosecutions of domestic violence related offenses, including
1007 dangerousness hearings, to serve as an examination of the effectiveness of the commonwealth's
1008 domestic violence laws. The report shall include data collection following the implementation of
1009 this act and shall be filed not later than June 30, 2015.

1010 | SECTION 50. Sections 1, 5, 9 and ~~1824~~ shall take effect on July 1, 2015.

1011 | SECTION 51. Section 4 shall take effect on January 1, 2015.