



The Commonwealth of Massachusetts

AN INITIATIVE PETITION

FOR A LAW

Under Article XLVIII of the Amendments to the Constitution of the Commonwealth

SUMMARY

This proposed law would repeal the state's existing abuse prevention law, also known as Chapter 209A, which allows a person alleging abuse to ask a court to issue a restraining order against a family or household member. The proceeding to obtain such an order is civil, but any violation of such an order is a crime, punishable by up to a \$5000 fine, imprisonment for up to 2½ years in a house of correction, or both.

The existing law defines "abuse" as attempting to cause or causing physical harm; placing a person in fear of imminent serious physical harm; or causing a person to have involuntary sexual relations. "Family or household members" are defined as persons who have a child together, or persons who are or were married to one another, living together, related by blood or marriage, or in a substantive dating or engagement relationship.

A court may issue such abuse-prevention orders as it deems necessary, including orders requiring the defendant to: (1) refrain from abusing the plaintiff or a child in the plaintiff's care or custody; (2) refrain from contacting the plaintiff or a child in the plaintiff's care or custody without court permission; (3) immediately leave, and stay away from, the places where the plaintiff lives and works; (4) pay temporary support for the plaintiff, any child in the plaintiff's custody, or both, if the defendant has a legal obligation to support them; (5) pay compensation to the plaintiff for losses suffered as a direct result of abuse; or (6) surrender any guns the defendant owns or controls to law enforcement authorities. The court may also award the plaintiff temporary custody of a minor child (including a child of the defendant and plaintiff) and may recommend that the defendant attend a batterer's intervention program.

Any order must be for a specified period of time, not more than one year, but may be extended after a further hearing. When the court is closed for business or the plaintiff is unable to appear due to severe hardship based on plaintiff's physical condition, and the plaintiff shows a substantial likelihood of immediate danger of abuse, a judge may issue a restraining order and communicate it to law enforcement by

telephone. If a court issues an order without notice to the defendant, the court must grant the defendant a hearing within 10 business days on whether to extend the order. The court may modify its order at the request of either party. The court may also issue a mutual restraining order or mutual no-contact order.

Before issuing an order, a court must search the statewide domestic violence recordkeeping system to determine whether the defendant has a record involving domestic abuse or other violence. Also, if records show a warrant outstanding against the defendant, law enforcement officials must be given any information regarding the defendant's most recent whereabouts.

Any order issued by a court must be served upon the defendant, unless the court orders otherwise. Law enforcement officers must use every reasonable means to enforce such orders.

If an order is violated, then in addition to any criminal punishment, a court must order the defendant to complete a batterer's intervention program, unless there is good cause not to do so or the program determines that the defendant is not suitable for intervention. The court may also order the defendant to undergo substance abuse treatment. The court may also order, instead of imprisonment, that the defendant stay out of specific geographic exclusion zones around the plaintiff's home and workplace and that the defendant wear a global positioning system (GPS) tracking device to monitor compliance.

The law requires that when a law enforcement officer has reason to believe that a family or household member has been or is in danger of being abused, the officer must use all reasonable means to prevent further abuse, such as: (1) remaining on the scene while the dangerous situation persists; (2) helping the abused person find and get to a safe place; (3) telling the person his or her rights, including the right to seek an abuse prevention order from a court; and (4) arresting any person the officer has probable cause to believe has violated an abuse prevention order.

FILING DEADLINES. Initiative petitions must be submitted to local election officials for certification of signatures no later than **5 p.m. on Wednesday, November 23, 2011.** Local election officials must complete their certification no later than December 5, 2011. Thereafter, initiative petitions containing certified signatures must be retrieved by petitioners from the local election officials and then filed with the Elections Division, Office of the Secretary of the Commonwealth, One Ashburton Place, Room 1705, Boston, MA, no later than **5 p.m. on Wednesday, December 7, 2011.**

FIRST TEN SIGNERS

Joseph Anthony Ureneck	2 Marlowe Street	Boston
Peter Hill	687 Wellesley Street	Weston
Michael Franco	68 Cote Avenue, 1-R	Chicopee
Timothy E. Enos	7 Van Norden Road	Burlington
Douglas J. George	21 Roslin Avenue	Quincy
John Toby Knudsen	20 Exeter Street	Belmont
Michael J. Quish	255 Colonial Road	North Attleborough
Thomas Franco	45 Cedar Hill Road	East Longmeadow
Patrick J. McCabe	46 Beacon Street	Boston
Charu D. Tevari	68 Hemlock Street, #2	Arlington

These names have been certified as names of registered voters in their places of residence. Original petition was filed on September 12, 2011.

SECRETARY OF THE COMMONWEALTH OF MASSACHUSETTS

REGISTRAR USE ONLY:

ONLY REGISTRAR MAY WRITE IN THIS AREA

CIRCULATOR INFORMATION

MAY BE CONTACTED AT:

Petition S
2 Marlowe Street
Boston, MA 02124
857-350-0575

CIRCULATOR AND SIGNER INFORMATION

INSTRUCTIONS TO CIRCULATORS AND SIGNERS

- **DO NOT ALTER THIS INITIATIVE PETITION IN ANY WAY. ADDITIONAL MARKINGS ON THIS PETITION WILL DISQUALIFY ANY SIGNATURES ON THIS PETITION SHEET.**
- For your signature to be valid, you must be a registered voter in the city or town named below and your signature should be written substantially as registered. DO NOT sign the same petition more than once.
- If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.

City or Town

Circulator petition sheet number

ONLY REGISTERED VOTERS OF

MAY SIGN THIS SHEET.

(OVER)

S

ATTENTION VOTERS: Before signing, read signer information on other side. CITY OR TOWN:

REGISTRAR USE ONLY	I. SIGNATURE to be made in person with name substantially as registered (except in case of physical disability as stated on other side)		II. NOW REGISTERED AT (street, number and apartment number, if any) (city or town will be the same as stated above)		WARD	PREC.
1						
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WARNING - criminal penalty for unlawfully signing, altering, defacing, mutilating, destroying, or suppressing this petition: fine of up to \$1,000 or imprisonment for up to one year.

INSTRUCTIONS TO REGISTRARS

REGISTRAR
INFORMATION

- You must time-stamp or write in date and time these papers are received.
- Check this against the name of each qualified voter to be certified. For names not certified, use the code at the right. Draw a line through any blank spaces not containing signatures.
- Each sheet must be certified by at least three registrars. A facsimile stamp is acceptable.
- You must complete certification no later than December 5, 2011.

- N - no such registered voter at that address, or address is illegible.
- S - unable to identify signature as that of voter because of form of signature, or signature is illegible.
- W - wrong community.
- T - already signed papers for this question.

CERTIFICATION OF SIGNATURES

At least three registrars' names must be signed or stamped below.

_____ city or town _____ month and day

We certify that _____
(number of names certified – use numbers and words)

above signatures checked this are names of qualified voters from this city or town.

Registrars of Voters or Election Commissioners of

_____ city or town _____ county

City or Town

ONLY REGISTERED VOTERS OF

MAY SIGN THIS SHEET.

