



# 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

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

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)

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