

HOUSE No. 4037

Text of an amendment (offered by Mr. DeLeo of Winthrop) to the Senate Bill enhancing protection for victims of domestic violence (Senate, No. 1897). April 8, 2014.

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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By striking out all after the enacting clause and inserting in place thereof the following:

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

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

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

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

- 25 (2) the service of said chapter 209A complaints and orders;
- 26 (3) verification and enforcement of temporary restraining and vacate orders when the
27 suspect is present or the suspect has fled;
- 28 (4) the legal duties imposed law enforcement officers to offer protection and assistance,
29 including guidelines for making felony and misdemeanor arrests, and for mandatory reporting of
30 child and elder abuse cases;
- 31 (5) techniques for handling domestic violence and sexual violence incidents that
32 minimize likelihood of injury to the law enforcement officer;
- 33 (6) techniques for handling domestic violence and sexual violence incidents that promote
34 the safety of the victim, including the importance of keeping the victim informed as to the
35 whereabouts of the suspect and other such information helpful for victim safety planning;
- 36 (7) the nature and extent of domestic violence, including the physiological and
37 psychological effects of the pattern of domestic violence and sexual violence on victims;
- 38 (8) the legal rights and the remedies available to victims of domestic violence and sexual
39 violence;
- 40 (9) Documentation, report writing and evidence collection, which shall include methods
41 for assessing the degree of risk of homicide involved in situations of domestic violence,
42 including, but not limited to, gathering information from the victim regarding the suspect's past
43 reported and non-reported behavior and dangerousness, such as: (i) whether the suspect has ever
44 used a weapon against the victim or threatened the victim with a weapon; (ii) whether the suspect
45 owns a gun; (iii) whether the suspect's physical violence against the victim has increased in
46 severity or frequency; (iv) whether the suspect has threatened to kill the victim; (v) whether the
47 suspect has ever threatened or attempted suicide; (vi) whether the suspect has used or threatened
48 physical violence against the victim's family, other household members or pets; (vii) whether the
49 suspect uses illegal drugs; (viii) whether the suspect abuses alcohol; and (ix) whether there have
50 been specific instances of strangulation or suffocation of the victim by the suspect.
- 51 (10) tenancy and custody issues, including those of married and unmarried couples.
- 52 (11) the impact of law enforcement intervention on children in domestic violence and
53 sexual violence situations;
- 54 (12) the services and facilities available to victims of abuse, including the victim's
55 compensation programs, emergency shelters and legal advocacy programs;
- 56 (13) techniques for increasing cooperation and immediate data sharing among different
57 areas of law enforcement in combating domestic violence and sexual violence;

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

61 (d) The course of basic training for law enforcement officers shall be taught as part of the
62 crisis intervention and conflict resolution components of the recruit academy training, so that
63 there will not be an increase in the currently required 480 hours of recruit training curriculum.

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

68 (f) The municipal police training committee shall periodically include within its in-
69 service training curriculum a course of instruction on handling domestic violence complaints
70 consistent with the provisions of paragraphs (1) through (13) of subsection (b).

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

76 SECTION 3. Said section 167 of said chapter 6is hereby further amended by inserting
77 after the word “proceedings”, in line 23, as so appearing, the following words:- , previous and
78 pending hearings conducted pursuant to section 58A of chapter 276, including requests of such
79 hearings, transfers by the court, disposition of such requests, findings and orders, regardless of
80 the determination.

81 SECTION 4. Chapter 6A of the General Laws is hereby amended by inserting after
82 section 18M,inserted by section 18 of chapter 38 of the acts of 2013, the following section:-

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

85 “Domestic violence”, the abuse of a family or household member, as such terms are
86 defined in section 1 of chapter 209A.

87 “Fatality”, any death resulting from an incident of domestic violence or attempted
88 domestic violence, including the death of an individual who was not a family or household
89 member of the perpetrator.

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

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

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

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

101 The state review team shall consist of the following 9 members:- the secretary of public
102 safety and security or a designee employed by the executive office of public safety, who shall
103 serve as chair; the attorney general or a designee employed by the office of the attorney general;
104 the chief medical examiner or a designee employed by the office of the chief medical examiner;
105 a member selected by the Massachusetts District Attorneys Association; the colonel of the state
106 police or a designee employed by the department of state police; the commissioner of probation
107 or a designee employed by the office of probation; 2 justices of the trial court, 1 of whom shall
108 be the chief justice of the trial court or a designee, and the other of whom shall be selected by the
109 chief justice; and a member selected by the Massachusetts office of victim assistance, who shall
110 be employed by the office.

111 The purpose of the state team shall be to decrease the incidence of preventable domestic
112 violence fatalities by: (i) developing an understanding of the causes and incidence of domestic
113 violence fatalities and the circumstances surrounding them; and (ii) advising the governor and
114 the general court by recommending changes in law, policy and practice designed to prevent
115 domestic violence fatalities.

116 To achieve its purpose, the state review team shall:

117 (1) develop model investigative and data collection protocols for local review teams;

118 (2) annually review incidents of fatalities within the commonwealth and assign at
119 least 3 fatalities, selected at random, to a local review team for investigation and report;
120 provided, that a fatality may be assigned only upon the majority vote of the state review team,
121 and only in the event that any criminal proceeding relative to the fatality is complete, with all
122 appeals exhausted;

123 (3) provide information to local review teams, law enforcement agencies and
124 domestic violence service providers for the purpose of protecting victims of domestic violence;

125 (4) provide training and written materials to local review teams to assist them in
126 carrying out their duties;

127 (5) review reports from local review teams;

128 (6) analyze community, public and private agency involvement with victims of
129 domestic violence and their families prior to and subsequent to fatalities;

130 (7) develop a protocol for the collection of data regarding fatalities and provide
131 training to local review teams on the protocol, which shall include protocol and training on the
132 issues of confidentiality of records, victims' identities, and any personally identifying data;

133 (8) develop and implement rules and procedures necessary for its own operation and
134 the operation of local review teams, which shall include the use of confidentiality agreements for
135 both the state and local review teams; and

136 (9) provide the governor and the general court with annual written reports, subject to
137 any applicable confidentiality restrictions, which shall include, but not be limited to, the state
138 team's findings and recommendations, and which shall be filed with the clerks of the house of
139 representatives and the senate on or before July 31.

140 (c) There shall be a local domestic violence fatality review team in each of the 11 districts
141 headed by a district attorney. Members of a local review team shall be subject to criminal
142 offender record checks to be conducted by the district attorney. All members shall serve without
143 compensation for their duties associated with membership on a local review team. All members
144 shall be immune from any liability resulting from the execution of their duties.

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

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

163 To achieve its purpose, each local team shall, subject to assignment by the state review
164 team:

165 (1) review, establish and implement model protocols from the state review team;

166 (2) execute a confidentiality agreement;

167 (3) review individual fatalities in accordance with the established protocol;

168 (4) meet periodically, but at least 2 times per calendar year, to review the status of
169 assigned cases and recommend methods of improving coordination of services between agencies
170 and service providers in its area;

171 (5) collect, maintain and provide confidential data as required by the state review team;
172 and

173 (6) provide law enforcement or other agencies with information for the purposes of the
174 protection of victims of domestic violence.

175 (d) At the request of the local district attorney, the local review team shall be immediately
176 provided with:

177 (1) information and records relevant to the cause of the fatality or any party involved with
178 the fatality maintained by providers of medical or other care, treatment or services, including
179 dental and mental health care;

180 (2) information and records relevant to the cause of the fatality or any party involved with
181 the fatality maintained by any state, county or local government agency including, but not
182 limited to, birth certificates, medical examiner investigative data, all incident reports, parole and
183 probation information records, and law enforcement data post-disposition, provided that certain
184 law enforcement records may be exempted by the local district attorney;

185 (3) information and records of any provider of social services, including the department
186 of children and families and non-profit agencies, related to the victim or victim's family or any
187 party involved with the fatality that the local team deems relevant to the review; and

188 (4) demographic information relevant to the victim and the victim's immediate family or
189 any party involved with the fatality, including, but not limited to, address, age, race, gender and
190 economic status.

191 The district attorney may enforce this subsection by seeking an order of the superior
192 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 may 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
215 chapter 66, and may only be disclosed as necessary to carry out a team's duties and purposes. All
216 such 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
234 are 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,
245 or pets; (vii) whether the suspect uses illegal drugs; (viii) whether the suspect abuses alcohol;
246 and (ix) whether there have been specific instances of strangulation or suffocation of the victim
247 by 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
253 and sexual violence on its victims, including children who witness such abuse;

254 (6) the underlying psychological and sociological causes of domestic violence and
255 sexual violence and the availability of batterer's intervention programs;

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

259 (8) techniques for increasing cooperation and immediate data sharing among different
260 areas of law enforcement and the court system in combating domestic violence and sexual
261 violence.

262 The Massachusetts District Attorneys Association may appoint such expert, clerical and
263 other staff members as the operation of the training program may require. Where appropriate, the
264 training presenters shall include domestic violence and sexual violence experts with expertise in
265 the delivery of direct services to victims of domestic violence and sexual violence, including

266 utilizing community based domestic violence, rape and sexual assault service providers, and
267 survivors of domestic violence, rape or sexual assault in the presentation of the training.

268 SECTION 6. Chapter 41 of the General Laws is hereby amended by striking out section
269 97D, as appearing in the 2012 Official Edition, and inserting in place thereof the following
270 section:-

271 Section 97D. All reports of rape and sexual assault or attempts to commit such offenses,
272 all reports of abuse perpetrated by family or household members, as defined in section 1 of
273 chapter 209A and all communications between police officers and victims of such offenses or
274 abuse shall not be public reports and shall be maintained by the police departments in a manner
275 that shall assure their confidentiality; provided, however, that all such reports shall be accessible
276 at all reasonable times, upon written request, to the victim and victim's attorney, to others
277 specifically authorized by the victim to obtain such information and to prosecutors, victim-
278 witness advocates as defined in section 1 of chapter 258B, domestic violence victims' counselors
279 as defined in section 20K of chapter 233, sexual assault counselors as defined in section 20J of
280 chapter 233, if such access is necessary in the performance of their duties; and provided further,
281 that all such reports shall be accessible at all reasonable times, upon written, telephonic,
282 facsimile, or electronic mail request to law enforcement officers, district attorneys or assistant
283 district attorneys, and all persons authorized to admit persons to bail pursuant to section 57 of
284 chapter 276. Communications between police officers and victims of said offenses and abuse
285 may also be shared with the forgoing named persons if such access is necessary in the
286 performance of their duties. Whoever violates any provision of this section shall be punished by
287 imprisonment for not more than 1 year or by a fine of not more than \$1,000, or both such fine
288 and imprisonment.

289 SECTION 7. Said chapter 41 is hereby further amended by striking out section 98F, as so
290 appearing, and inserting in place thereof the following section:-

291 Section 98F. Each police department and each college or university to which officers
292 have been appointed pursuant to the provisions of section 63 of chapter 22C shall make, keep
293 and maintain a daily log, written in a form that can be easily understood, recording, in
294 chronological order, all responses to valid complaints received, crimes reported, the names,
295 addresses of persons arrested and the charges against such persons arrested. All entries in said
296 daily logs shall, unless otherwise provided in law, be public records available without charge to
297 the public during regular business hours and at all other reasonable times; provided, however,
298 that any entry in a log which pertains to a handicapped individual who is physically or mentally
299 incapacitated to the degree that said person is confined to a wheelchair or is bedridden or
300 requires the use of a device designed to provide said person with mobility, any information
301 concerning responses to reports of domestic violence, rape or sexual assault, or any entry
302 concerning the arrest of a person for assault, assault and battery, or violation of a protective order
303 where the victim is a family or household member, as defined in section 1 of chapter 209A, shall

304 be kept in a separate log and shall not be a public record nor shall such entry be disclosed to the
305 public, or any individual not specified in section 97D.

306 SECTION 8. Chapter 112 of the General Laws is hereby amended by adding the
307 following section:-

308 Section 264. The board of registration in medicine, the board of registration in nursing,
309 the board of registration of physician assistants, the board of administration of nursing home
310 administrators, the board of registration of social workers, the board of registration of
311 psychologists and the board of registration of allied mental health and human services
312 professions shall develop and administer standards for licensure, registration or certification
313 pursuant to this chapter, as applicable, and any renewal thereof, that require training and
314 education on the issue of domestic violence and sexual violence, including, but not limited to, the
315 common physiological and psychological symptoms of domestic violence and sexual violence,
316 the physiological and psychological effects of domestic violence and sexual violence on victims,
317 and the availability of community-based domestic violence, rape and sexual assault shelter and
318 support services within the commonwealth. Each board may work with community-based
319 domestic violence, rape and sexual assault service providers in order to develop the standards
320 required by this section. Each board shall: (i) promulgate rules and regulations establishing the
321 standards required by this section; and (ii) identify programs or courses of study which meet
322 these standards and the rules or regulations so promulgated. Each board shall provide a list of
323 the identified programs or courses of study to an applicant for licensure, registration or
324 certification, or renewal thereof.

325 SECTION 9. Chapter 149 of the General Laws is hereby amended by inserting after
326 section 52D the following new section:-

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

329 “Abuse”, (i) attempting to cause or causing physical harm; (ii) placing another in fear of
330 imminent serious physical harm; (iii) causing another to engage involuntarily in sexual relations
331 by force, threat or duress or engaging or threatening to engage in sexual activity with a
332 dependent child; (iv) engaging in mental abuse, which includes threats, intimidation or acts
333 designed to induce terror; or (v) depriving another of medical care, housing, food or other
334 necessities of life.

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

340 “Domestic violence”, abuse against an employee or the employee’s family member by:
341 (i) a current or former spouse of the employee or the employee’s family member; (ii) a person
342 with whom the employee or the employee’s family member shares a child in common; (iii) a
343 person who is cohabitating with or has cohabitated with the employee or the employee’s family
344 member; (iv) a person who is related by blood or marriage to the employee; or (v) a person with
345 whom the employee or employee’s family member has or had a dating or engagement
346 relationship.

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

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

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

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

361 (iii) the employee is not the perpetrator of the abusive behavior against such
362 employee’s family member.

363 The employer shall have sole discretion to determine whether any leave taken pursuant to
364 this section shall be paid or unpaid.

365 (c) This section shall apply to employers who employ 50 or more employees. As used in
366 this subsection, “employees” shall mean individuals who perform services for and under the
367 control and direction of an employer for wages or other remuneration.

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

371 If there is a threat of imminent danger to the health or safety of an employee or the
372 employee’s family member, the employee shall not be required to provide advance notice of
373 leave; provided, however, that the employee shall notify the employer within 3 workdays that the
374 leave was taken or is being taken pursuant to this section. Such notification may be

375 communicated to the employer by the employee, a family member of the employee or the
376 employee's counselor, social worker, health care worker, member of the clergy, shelter worker,
377 legal advocate or other professional who has assisted the employee in addressing the effects of
378 the abusive behavior on the employee or the employee's family member.

379 If an unscheduled absence occurs, an employer shall not take any negative action against
380 the employee if the employee, within 30 days from the unauthorized absence or within 30 days
381 from the last unauthorized absence in the instance of consecutive days of unauthorized absences,
382 provides any of the documentation described in paragraphs (1) to (6), inclusive, of subsection
383 (e).

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

392 (1) a document under the letterhead of the court, provider or public agency which
393 the employee attended for the purposes of acquiring assistance as it relates to the abusive
394 behavior against the employee or the employee's family member;

395 (2) a police report or statement of a victim or witness provided to police,
396 including a police incident report, documenting the abusive behavior complained of by the
397 employee or the employee's family member;

398 (3) documentation that the perpetrator of the abusive behavior against the
399 employee or family member of the employee has: (i) admitted to sufficient facts to support a
400 finding of guilt of abusive behavior; or (ii) been convicted of, or adjudicated a juvenile
401 delinquent by reason of any offense constituting abusive behavior and which is related to the
402 abusive behavior that necessitated the leave pursuant to this section;

403 (4) medical documentation of treatment as a result of the abusive behavior
404 complained of by the employee or employee's family member.;

405 (5) an affidavit, signed under the penalties of perjury, provided by a counselor,
406 social worker, health care worker, member of the clergy, shelter worker, legal advocate or other
407 professional who has assisted the employee or the employee's family member in addressing the
408 effects of the abusive behavior; or

409 (6) an affidavit , signed under the penalties of perjury, from the employee
410 attesting that the employee has been the victim of abusive behavior or is the family member of a
411 victim of abusive behavior.

412 Any documentation provided to an employer pursuant to this section may be maintained
413 by the employer in the employee's employment record but only for as long as required for the
414 employer to make a determination as to whether the employee is eligible for leave pursuant to
415 this section.

416 (f) All information that is not a public record related to the employee's leave pursuant to
417 this section shall be kept confidential by the employer and shall not be disclosed, except to the
418 extent that disclosure is:

419 (i) requested or consented to, in writing, by the employee;

420 (ii) ordered to be released by a court of competent jurisdiction;

421 (iii) otherwise required by applicable federal or state law;

422 (iv) related to investigations authorized by law enforcement, including, but not
423 limited to, an investigation by the attorney general; or

424 (v) necessary to protect the safety of the employee or others employed at the
425 workplace.

426 (g) An employee seeking leave pursuant to this section shall exhaust all annual or
427 vacation leave, personal leave and sick leave available to the employee, prior to requesting or
428 taking leave pursuant to this section, unless the employer waives this requirement.

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

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

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

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

442 confidentiality. As used in this subsection, “employees” shall mean individuals who perform
443 services for and under the control and direction of an employer for wages or other remuneration.

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

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

451 SECTION 10. Section 150 of said chapter 149, as appearing in the 2012 Official Edition,
452 is hereby amended by inserting after the figure “33E”, in line 20, the following figure:- , 52E.

453 SECTION 11. Section 3 of chapter 209A of the General Laws, as so appearing, is hereby
454 amended by striking out, in line 149, the word “except” and inserting in place thereof the
455 following:- including.

456 SECTION 12. Said section 3 of said chapter 209A, as so appearing, is hereby further
457 amended by inserting after the word “support”, in line 149, the following:-

458 ; provided, however, that upon issuing an order for custody or support, the superior,
459 district or Boston municipal court shall provide a copy of the order to the probate and family
460 court department of the trial court that issued the prior or pending custody or support order
461 immediately; provided further, that such order for custody or support shall be for a fixed period
462 of time not to exceed 30 days; and provided further, that such order may be superseded by a
463 subsequent custody or support order issued by the probate and family court department, which
464 shall retain final jurisdiction over any custody or support order.

465 SECTION 13. The second paragraph of section 7 of said chapter 209A, as so appearing,
466 is hereby amended by inserting, after the first sentence the following sentence:- Law
467 enforcement agencies shall establish adequate procedures to ensure that, when effecting service
468 upon a defendant pursuant to this paragraph, a law enforcement officer shall, to the extent
469 practicable: (i) fully inform the defendant of the contents of the order and the available penalties
470 for any violation of an order or terms thereof, and (ii) provide the defendant with informational
471 resources, including, but not limited to, a list of certified batterer intervention programs, and
472 substance abuse counseling, alcohol abuse counseling, and financial counseling programs located
473 within or near the court’s jurisdiction.

474 SECTION 14. Said section 7 of said chapter 209A, as so appearing, is hereby further
475 amended by inserting after the word “order”, in line 50, the following words:- , or as a condition
476 of a continuance without a finding.

477 SECTION 15. Subsection (a) of section 3 of chapter 209C of the General Laws, as so
478 appearing, is hereby amended by adding the following sentence:- No court shall make an order
479 providing visitation rights to a parent who was convicted of rape pursuant to sections 22 to 23B,
480 inclusive, of chapter 265 or section 3, 4, or 17 of chapter 272, and is seeking to obtain visitation
481 with the child who was conceived during the commission of that rape, unless the judge
482 determines that such child is of suitable age to signify the child's assent and that assent is in the
483 best interest of the child; provided, however, that a court may make an order providing visitation
484 rights to a parent convicted of rape pursuant to section 23 of said chapter 265, if visitation is in
485 the best interest of the child and either (i) the other parent of the child conceived during the
486 commission of that rape has reached the age of 18, and said parent consents to such visitation, or
487 (ii) the judge makes an independent determination that visitation is in the best interest of the
488 child.

489 SECTION 16. The first paragraph of subsection (e) of section 10 of said chapter 209C, as
490 so appearing, is hereby amended by adding the following sentence:- For the purposes of this
491 section, if the child was conceived during the commission of a rape and the parent was convicted
492 of said rape pursuant to sections 22 to 23B, inclusive, of chapter 265 or section 3, 4 or 17 of
493 chapter 272, said conviction shall be conclusive evidence of a serious incident of abuse by the
494 convicted parent.

495 SECTION 17. Chapter 211B of the General Laws is hereby amended by inserting after
496 section 9A the following section:-

497 Section 9B. The chief justice of the trial court department shall provide training on the
498 issue of domestic violence and sexual violence in the commonwealth, at least once biannually, to
499 all appropriate court personnel throughout the commonwealth, including but not limited to
500 judges, clerks of court, probation officers, court officers, security officers and guardians ad litem.
501 Such training shall include, but not be limited to, the dissemination of information concerning:

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

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

506 (3) methods for assessing the degree of risk of homicide involved in situations of
507 domestic violence, including, but not limited to, gathering information from the victim regarding
508 the suspect's past reported and non-reported behavior and dangerousness, such as : (i) whether
509 the suspect has ever used a weapon against the victim or threatened the victim with a weapon,
510 (ii) whether the suspect owns a gun; (iii) whether the suspect's physical violence against the
511 victim has increased in severity or frequency; (iv) whether the suspect has threatened to kill the
512 victim; (v) whether the suspect has ever threatened or attempted suicide; (vi) whether the suspect
513 has used or threatened physical violence against the victim's family, other household members,

514 or pets; (vii) whether the suspect uses illegal drugs; (viii) whether the suspect abuses alcohol;
515 and (ix) whether there have been specific instances of strangulation or suffocation of the victim
516 by the suspect;

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

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

523 (6) the underlying psychological and sociological causes of domestic violence and
524 sexual violence and the availability of batterer's intervention programs;

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

528 (8) techniques for increasing cooperation and immediate data sharing among different
529 areas of law enforcement and the court system in combating domestic violence and sexual
530 violence.

531 The chief justice of the trial court may appoint such expert, clerical and other staff
532 members as the operation of the training program may require. Where appropriate, the training
533 presenters shall include domestic violence and sexual violence experts with expertise in the
534 delivery of direct services to victims of domestic violence and sexual violence, including
535 utilizing community based domestic violence, rape and sexual assault service providers, and
536 survivors of domestic violence, rape or sexual assault in the presentation of the training.

537 SECTION 18. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby
538 amended by striking out, in line 18, the words "fifteen A and twenty-one A" and inserting in
539 place thereof the following:- 15A, 15D, 21A and 26.

540 SECTION 19. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby
541 amended by striking out, in line 1, the figure "90" and inserting in place thereof the following
542 figure:- 110.

543 SECTION 20. Said section 8 of said chapter 258B, as so appearing, is hereby further
544 amended by striking out, in line 5, the figure "50" and inserting in place thereof the following
545 figure:- 70.

546 SECTION 21. Said section 8 of said chapter 258B, as so appearing, is hereby further
547 amended by striking out, in line 8, the figure “45” and inserting in place thereof the following
548 figure:- 65.

549 SECTION 22. Said section 8 of said chapter 258B, as so appearing, is hereby further
550 amended by inserting after the third sentence the following sentence:- The court shall impose an
551 additional domestic violence prevention and victim assistance assessment of \$50 for any
552 violation of an order issued pursuant to sections 18 or 34B of chapter 208, section 32 of chapter
553 209, sections 3, 4 or 5 of 209A, or section 15 of chapter 209C, or a conviction or adjudication for
554 an act which would constitute abuse as defined in section 1 of 209A, or a violation of section
555 13M of chapter 265, which shall be deposited in the Domestic Violence Prevention and Victim
556 Assistance Fund, established by section 14.

557 SECTION 23. Said section 8 of said chapter 258B, as so appearing, is hereby further
558 amended by striking out the seventh sentence and inserting in place thereof the following
559 sentence:-

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

567 SECTION 24. Said section 8 of said chapter 258B, as so appearing, is hereby further
568 amended by inserting after the word “assessment”, in line 50, the following words:- and the
569 domestic violence prevention and victim assistance assessment.

570 SECTION 25. Said chapter 258B is hereby further amended by adding the following
571 section:-

572 Section 14. (a) There shall be established and placed within the Massachusetts office for
573 victim assistance, under the control of the board, a fund to be known as the Domestic Violence
574 Prevention and Victim Assistance Fund, hereinafter referred to as the fund, to be held by the
575 board separate and apart from other funds, to support innovative practices to prevent domestic
576 violence and provide assistance to victims of domestic violence in the commonwealth. The fund
577 shall be credited any appropriations, bond proceeds, or other monies authorized by the general
578 court and specifically designated to be credited thereto, such additional funds as are subject to
579 the direction and control of the board, any pension funds, federal grants or loans, royalties or
580 private investment capital which may properly be applied in furtherance of the objectives of the
581 fund, domestic violence prevention and victim assistance assessments pursuant to section 8 of
582 chapter 258B and any other monies which may be available to the board for the purposes of the

583 fund from any other source or sources. Any revenues, deposits, receipts or funds received shall
584 be deposited in the fund, and shall be available to the board for the purposes described in this
585 section, without further appropriation. The state treasurer shall be the custodian of the fund and
586 shall receive, deposit and invest all monies transmitted to the state treasurer pursuant to this
587 section in accordance with sections 34, 34A and 38 of chapter 29 in such a manner as to secure
588 the highest rate of return available consistent with the safety of the fund, and shall credit interest
589 and earnings on the trust fund corpus to the trust fund; provided, that all amounts on deposit shall
590 be available for immediate use. At the request of the board, the state treasurer shall transfer
591 funds to the board for the administration of any grant pursuant to this section.

592 (b) All available monies in the fund that are unexpended at the end of each fiscal year
593 shall not revert to the General Fund and shall be available for expenditure in the subsequent
594 fiscal year.

595 (c) The fund shall be held and applied by the board to provide grants designed to support
596 innovative practices to prevent domestic violence and provide assistance to victims of domestic
597 violence in the commonwealth. Such innovative practices shall include, but are not limited to:
598 (i) community-based domestic violence prevention and assistance programs and service
599 providers; (ii) multi-disciplinary teams addressing victims of domestic violence at high risk of
600 homicide or fatality; and (iii) other programs and service providers that support victims of
601 domestic violence.

602 The board shall develop, in conjunction with Jane Doe, Inc., and establish guidelines for
603 applications for grants from the fund no later than October 1, 2014; provided, that an application
604 must demonstrate the way in which the applicant's practice or program will result in the
605 improvement of services provided to victims of domestic violence. The board shall determine the
606 eligibility of applicants for grants from the fund, and the level of benefits provided to successful
607 applicants. A maximum of 6 grantees may be selected to receive grants from the fund. The
608 board shall structure the payments to grantees to ensure that no expenditure from or commitment
609 of the assets of the fund shall result in a negative amount within the fund.

610 (d) On or before January 1, 2015, the board shall submit a report to the clerks of the
611 house of representatives and the senate, who shall forward the same to the house and senate
612 committees on ways and means, and to the executive office for administration and finance. The
613 report shall provide, at a minimum: (i) the guidelines for applications for grants from the fund;
614 (ii) a list of all applicants for grants from the fund; and (iii) a set of clearly-defined goals and
615 benchmarks to be used to evaluate grant recipients.

616 (e) On or before March 1, 2017, the executive director shall submit a report to the clerks
617 of the house of representatives and the senate, who shall forward the same to the house and
618 senate committees on ways and means, and to the executive office for administration and
619 finance. The report shall provide, at a minimum: (i) detailed evaluations of the performance of

620 grant recipients; (ii) detailed information on grant recipients considered to be most successful;
621 (iii) the potential for the future development and implementation of successful grant recipients'
622 practices or programs; and (iv) recommendations as to how any monies remaining in the fund
623 should be spent.

624 SECTION 26. Section 14 of said chapter 258B is hereby repealed,

625 SECTION 27. Section 13K of chapter 265 of the General Laws, as appearing in the 2012
626 Official Edition, is hereby amended by inserting after subsection (c) the following new
627 subsection:-

628 (c $\frac{1}{2}$) Whoever commits an assault and battery upon a family or household member, as
629 defined in section 1 of chapter 209A, except that the determination to be made pursuant to clause
630 (e) of said section 1 of said chapter 209A shall be made by the trier of fact, who is an elder or
631 person with disability shall, in addition to any other penalty authorized by this section, be
632 punished by imprisonment in the state prison for not more than 5 years or in the house of
633 correction for not more than 2 $\frac{1}{2}$ years or by a fine of not more than \$5,000 or by both such fine
634 and imprisonment.

635 SECTION 28. Said chapter 265 is hereby further amended by striking out section 13M,
636 as so appearing, and inserting in place thereof the following section:-

637 Section 13M. (a) Whoever commits an assault or assault and battery on a family or
638 household member, as defined in section 13O, shall be punished by imprisonment in the house of
639 correction for not more than 2 $\frac{1}{2}$ years or by a fine of not more than \$5,000 or both.

640 (b) Whoever is convicted of committing an assault or assault and battery on a family or
641 household member, after having previously been convicted of, granted a continuance without a
642 finding for, or otherwise having pleaded guilty to or admitted to a finding of sufficient facts of
643 one of the following offenses, or of a like offense in federal court or the court of any state: (1) an
644 assault or assault and battery on a family or household member; (2) (2) an offense that has as an
645 element the possession, use, or threatened use of a deadly weapon; (3) a sex offense, as defined
646 in section 178C of chapter 6, or (4) a violation of section 7 of chapter 209A, shall be punished by
647 imprisonment in the state prison for not more than 5 years or in the house of correction for not
648 more than 2 $\frac{1}{2}$ years, or by a fine of not more than \$10,000, or by both such fine and
649 imprisonment.

650 (c) For any violation of this section, or as a condition of a continuance without a finding,
651 the court shall order the defendant to complete a certified batterer's intervention program unless,
652 upon good cause shown, the court issues specific written findings describing the reasons that
653 batterer's intervention should not be ordered or unless the batterer's intervention program
654 determines that the defendant is not suitable for intervention. Should a defendant not under
655 parole supervision fail to complete a certified batterer's intervention program ordered under this

656 subsection within 12 months of disposition or release from confinement, or within such other
657 time as set by the court, the defendant's original term of imprisonment shall be increased by
658 imprisonment in the house of correction for 60 days.

659 SECTION 29. Said chapter 265 is hereby further amended by inserting after section 13M
660 the following 2 new sections:-

661 Section 13N. (a) Whoever commits, or attempts to commit an assault or an assault and
662 battery on a family or household member, as defined in section 13O, within 500 feet of the real
663 property comprising a trial court of the commonwealth, as defined in section 1 of chapter 211B,
664 shall be punished imprisonment in the state prison for not more than 5 years or in the house of
665 correction for not more than 2½ years, or by a fine of not more than \$1,000, or or by both such
666 fine and imprisonment.

667 (b) Whoever commits, or attempts to commit an assault or an assault and battery on a
668 family or household member, as defined in section 13O, with the intent to intimidate, deter or
669 prevent such family or household member from obtaining access to a trial court of the
670 commonwealth, as defined in section 1 of chapter 211B, shall be punished by imprisonment in
671 the state prison for not more than 10 years or in the house of correction for not more than 2½
672 years, or by a fine of not less than \$1,000 nor more than \$5,000, or by both such fine and
673 imprisonment.

674 (c) For any violation of this section, or as a condition of a continuance without a finding,
675 the court shall order the defendant to complete a certified batterer's intervention program unless,
676 upon good cause shown, the court issues specific written findings describing the reasons that
677 batterer's intervention should not be ordered or unless the batterer's intervention program
678 determines that the defendant is not suitable for intervention. Should a defendant not under
679 parole supervision fail to complete a certified batterer's intervention program ordered under this
680 subsection within 6 months of disposition or release from confinement, or within such other time
681 as set by the court, the defendant's original term of imprisonment shall be increased by
682 imprisonment in the house of correction for 60 days.

683 Section 13O. For the purposes of sections 13M and 13N the term "Family or household
684 member", shall mean persons who:

685 (a) are or were married to one another;

686 (b) have a child in common regardless of whether they have ever married or lived
687 together; or

688 (c) are or have been in a substantive dating or engagement relationship, which shall be
689 adjudged by the district, probate or Boston municipal courts' consideration of the following
690 factors:

- 691 (1) the length of time of the relationship;
- 692 (2) the type of relationship;
- 693 (3) the frequency of interaction between the parties; and
- 694 (4) if the relationship has been terminated by either person, the length of time elapsed
- 695 since the termination of the relationship.

696 SECTION 30. Said chapter is hereby further amended by inserting after section 15C the
697 following section:-

698 Section 15D. (a) For the purposes of this section the following words shall have the
699 following meanings:-

700 “Strangulation”, the intentional interference of the normal breathing or circulation of
701 blood by applying substantial pressure on the throat or neck of another.

702 “Suffocation”, the intentional interference of the normal breathing or circulation of blood
703 by blocking the nose or mouth of another.

704 “Serious bodily injury”, bodily injury that results in a permanent disfigurement, loss or
705 impairment of a bodily function, limb or organ, or a substantial risk of death.

706 (b) Whoever strangles or suffocates another shall be punished by imprisonment in the
707 state prison for not more than 5years or in the house of correction for not more than 2½ years, or
708 by a fine of not more than \$5,000, or by both such fine and imprisonment.

709 (c) Whoever: (i) strangles or suffocates another and by such strangulation or suffocation
710 causes serious bodily injury; or (ii) strangles or suffocates another who is pregnant at the time of
711 such strangulation or suffocation, knowing or having reason to know that the person is pregnant;
712 or (iii) is convicted of strangling or suffocating another after having been previously convicted of
713 the crime of strangling or suffocating another under this section, or of a like offense in federal
714 court or the court of any state; or (iv) strangles or suffocates another who he or she knows has an
715 outstanding temporary or permanent vacate, restraining or no contact order or judgment issued
716 pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of
717 chapter 209A or section 15 of chapter 209C, in effect against him or her at the time the offense
718 was committed, shall be punished by imprisonment in the state prison for not more than 10 years
719 or in the house of correction for not more than 2½ years, and by a fine of not more than \$10,000.

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

725 parole supervision fail to complete a certified batterer’s intervention program ordered under this
726 subsection within 12 months of disposition or release from confinement, or within such other
727 time as set by the court, the defendant’s original term of imprisonment shall be increased by
728 imprisonment in the house of correction for 60 days.

729 SECTION 31. Section 20D of chapter 276 of the General Laws, as appearing in the 2012
730 Official Edition, is hereby amended by inserting after the word “governor”, in line 8, the
731 following words:- ; provided, however, that if a person is arrested for a crime in the
732 commonwealth, any bail by bond or undertaking shall be assessed pursuant to sections 42, 42A,
733 57, 58 and 58A.

734 SECTION 32. Section 42 of said chapter 276, as so appearing, is hereby amended by
735 inserting after the word “trial”, in line 6, the following words:- ; provided, however, that if a
736 person is arrested for a violation of an order issued pursuant to section 18 or 34B of chapter 208,
737 section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C or any
738 act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections
739 13K, 13M, 13N or 15D of chapter 265, any bail shall be assessed pursuant sections 42A, 57, 58
740 and 58A.

741 SECTION 33. Section 42A of said chapter 276, as so appearing, is hereby amended by
742 inserting after the word “of”, in line 7, the following words:- bail or.

743 SECTION 34. Said section 42A of said chapter 276, as so appearing, is hereby further
744 amended by inserting after the first paragraph the following paragraph:-

745 For any violation of an order issued pursuant to section 18 or 34B of chapter 208, section
746 32 of chapter 209, section 3, 4 or 5 of 209A or section 15 of chapter 209C or any act that would
747 constitute abuse as defined in section 1 of chapter 209A, or a violation of sections 13K, 13M,
748 13N or 15D of chapter 265, (1) a person arrested shall not be admitted to bail sooner than 6 hours
749 after arrest, except by a judge in open court, and, except where prohibited by section 57, every
750 effort shall be made to assess bail no more than 8 hours after the arrest, and (2) the person
751 authorized to take bail for such violation shall make a written determination as to whether there
752 are conditions of release that will reasonably assure the safety of the alleged victim or any other
753 individual or the community on the basis of any information which the court can reasonably
754 obtain, the nature and circumstances of the offense charged, the potential penalty the person
755 faces, the person’s family ties, employment record and history of mental illness, the person’s
756 reputation, the risk that the person will obstruct or attempt to obstruct justice or threaten, injure
757 or intimidate or attempt to threaten, injure or intimidate a prospective witness or juror, the
758 person’s record of convictions, if any, any illegal drug distribution or present drug dependency,
759 whether the person is on bail pending adjudication of a prior charge, whether the acts alleged
760 involve abuse as defined in section 1 of chapter 209A, violation of a temporary or permanent
761 order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4

762 or 5 of chapter 209A or section 15 of chapter 209C, whether the person has any history of
763 issuance of such orders pursuant to the aforesaid sections, whether the person is on probation,
764 parole or other release pending completion of sentence for any conviction and whether the
765 person is on release pending sentence or appeal for any conviction. The person authorized to take
766 bail shall have immediate access to all pending and prior police and incident reports related to
767 the person detained, upon oral, telephonic, facsimile or electronic mail request. If, after an
768 evaluation of all factors set forth in this paragraph, a written determination is made that there are
769 conditions of release that will reasonably assure the safety of the alleged victim, any other
770 individual and the community, the person authorized to admit the person to bail shall impose
771 such conditions of release. If, after an evaluation of all factors set forth in this paragraph, a
772 written determination is made that there are no conditions of release that will reasonably assure
773 the safety of the alleged victim or any other individual or the community, the person shall be
774 held and transferred automatically, and without a motion from the commonwealth, for an
775 appearance and hearing pursuant to section 58A at the next sitting of the court; provided,
776 however, that the commonwealth may decline such a hearing and instead proceed under section
777 58 and request cash bail or under section 58B revocation of release. If, after an evaluation of all
778 the factors set forth in this paragraph, a person is to be admitted to bail, a written determination
779 shall be made as to why admittance is supported and which conditions will reasonably assure the
780 safety of the alleged victim or any other individual or the community. The person shall, prior to
781 admittance, be provided with informational resources related to domestic violence by the person
782 admitting the arrestee to bail, which shall include, but is not limited to, a list of certified batterer
783 intervention programs located within or near the court's jurisdiction. If the defendant is released
784 on bail from the place of detention, a reasonable attempt shall be made to notify the victim of the
785 defendant's release by the arresting police department. If the defendant is released on bail by
786 order of a court, a reasonable attempt shall be made to notify the victim of the defendant's
787 release by the district attorney.

788 The commonwealth shall be the only party permitted to move for arraignment, within 3
789 hours of a complaint being signed by a magistrate or the magistrate's designee, for a person
790 charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32
791 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 of chapter 209C, or a violation of
792 section 13K, 13M, 13N or 15D of chapter 265. SECTION 35. Section 55 of said chapter 276, as
793 so appearing, is hereby amended by inserting after the word "felony", in line 5, the following
794 words:- , or was a violation of an order issued pursuant to section 18 or 34B of chapter 208,
795 section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C or was
796 a violation of sections 13K, 13M, 13N or 15D of chapter 265 or would otherwise constitute abuse
797 as defined in section 1 of said chapter 209A.

798 SECTION 36. Said chapter 276 is hereby further amended by inserting after section 56
799 the following section:-

800 Section 56A. Before a judge of the superior court or district court releases, discharges or
801 admits to bail any person arrested and charged with a crime against the person or property of
802 another, the judicial officer shall inquire into and determine whether, in the exercise of the
803 judicial officer's discretion and based upon the information provided to the court, abuse, as
804 defined in section 1 of chapter 209A, has occurred immediately prior to or in conjunction with
805 the crime for which the person was arrested and charged. If the judge determines that abuse has
806 so occurred, the judge shall make preliminary written findings of fact to that effect. Such
807 preliminary written findings of fact shall be maintained within the statewide domestic violence
808 record keeping system. Such preliminary written findings of fact shall not be considered criminal
809 offender record information or public records and shall not be open for public inspection. Such
810 preliminary written findings of fact shall not be admissible in any investigation or proceeding
811 before a grand jury or court of the commonwealth related to the crime for which the person was
812 brought before the court for release, discharge or discretion that such abuse has not occurred, in
813 which case the preliminary written findings of fact shall be removed from the statewide domestic
814 violence record keeping system. Nothing in this section shall be construed as modifying or
815 limiting the presumption of innocence.

816 SECTION 37. Section 57 of said chapter 276, as appearing in the 2012 Official Edition,
817 is hereby amended by inserting after the first paragraph the following paragraph:-

818 For any violation of an order or judgment issued pursuant to section 18 or 34B of chapter
819 208, section 32 of chapter 209, section 3, 4 or 5 of 209A, section 15 or 20 of chapter 209C or any
820 act that would constitute abuse as defined in section 1 of chapter 209A, or a violation of sections
821 13K,13M, 13N or 15D of chapter 265, (1) a person arrested shall not be admitted to bail sooner
822 than 6 hours after the time of arrest, except by a judge in open court, and, except where
823 prohibited by section 57, every effort shall be made to assess bail no more than 8 hours after the
824 time of arrest, and (2) a person authorized to take bail pursuant to this section shall make a
825 written determination as to whether there are conditions of release that will reasonably assure the
826 safety of the alleged victim or any other individual or the community on the basis of any
827 information which the justice or a clerk or assistant clerk of the district court, a bail
828 commissioner or a master in chancery can reasonably obtain, the nature and circumstances of the
829 offense charged, the potential penalty the person faces, the person's family ties, employment
830 record and history of mental illness, the person's reputation, the risk that the person will obstruct
831 or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten, injure or
832 intimidate a prospective witness or juror, the person's record of convictions, if any, any illegal
833 drug distribution or present drug dependency, whether the person is on bail pending adjudication
834 of a prior charge, whether the acts alleged involve abuse as defined in section 1 of chapter 209A,
835 violation of a temporary or permanent order issued pursuant to section 18 or 34B of chapter 208,
836 section 32 of chapter 209, section 3,4, or 5 of chapter 209A or section 15 of chapter 209C,
837 whether the person has any history of issuance of such orders pursuant to the aforesaid sections,
838 whether the person is on probation, parole or other release pending completion of sentence for

839 any conviction and whether the person is on release pending sentence or appeal for any
840 conviction. The person authorized to take bail shall have immediate access to all pending and
841 prior police and incident reports related to the person detained, upon oral, telephonic, facsimile
842 or electronic mail request. If, after an evaluation of all factors set forth in this paragraph, a
843 written determination is made that there are conditions of release that will reasonably assure the
844 safety of the alleged victim, any other individual and the community, the person authorized to
845 admit the person to bail shall impose such conditions of release. If, after an evaluation of all
846 factors set forth in this paragraph, a written determination is made that there are no conditions of
847 release that will reasonably assure the safety of the alleged victim or any other individual or the
848 community, the person shall be held and transferred automatically, and without a motion from
849 the commonwealth, for an appearance and hearing pursuant to section 58A at the next sitting of
850 the court; provided, however, that the commonwealth may decline such a hearing and instead
851 proceed under section 58 and request cash bail or under section 58B revocation of release. If,
852 after an evaluation of all the factors set forth in this paragraph, a person is to be admitted to bail,
853 a written determination shall be made as to why admittance is supported and which conditions
854 will reasonably assure the safety of the alleged victim or any other individual or the community.
855 The person shall, prior to admittance, be provided with informational resources related to
856 domestic violence by the person admitting the arrestee to bail, which shall include, but is not
857 limited to, a list of certified batterer intervention programs located within or near the court's
858 jurisdiction. If the defendant is released on bail from the place of detention, a reasonable attempt
859 shall be made to notify the victim of the defendant's release by the arresting police department.
860 If the defendant is released on bail by order of a court, a reasonable attempt shall be made to
861 notify the victim of the defendant's release by the district attorney.

862 The commonwealth shall be the only party permitted to move for arraignment, within 3
863 hours of a complaint being signed by a magistrate or the magistrate's designee, for a person
864 charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section
865 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 of chapter 209C, or a violation
866 of section 13K, 13M, 13N or 15D of chapter 265.

867 SECTION 38. Section 58 of said chapter 276, so appearing, is hereby amended by
868 inserting after the first paragraph, the following paragraph:-

869 For any violation of an order or judgment issued pursuant to section 18 or 34B of chapter
870 208, section 32 of chapter 209, section 3, 4 or 5 of 209A, or section 15 of chapter 209C or any
871 act that would constitute abuse as defined in section 1 of chapter 209A or a violation of sections
872 13K, 13M, 13N or 15D of chapter 265, (1) a person arrested shall not be admitted to bail sooner
873 than 6 hours after the time of arrest, except by a judge in open court, and, except where
874 prohibited by section 57, every effort shall be made to assess bail no more than 8 hours after the
875 time of arrest, and (2) a person authorized to take bail pursuant to this section and section 57
876 shall make a written determination as to whether there are conditions of release that will
877 reasonably assure the safety of the alleged victim or any other individual or the community on

878 the basis of any information which the justice or a clerk or assistant clerk of the district court, a
879 bail commissioner or a master in chancery can reasonably obtain, the nature and circumstances
880 of the offense charged, the potential penalty the person faces, the person's family ties,
881 employment record and history of mental illness, the person's reputation, the risk that the person
882 will obstruct or attempt to obstruct justice or threaten, injure or intimidate or attempt to threaten,
883 injure or intimidate a prospective witness or juror, the person's record of convictions, if any, any
884 illegal drug distribution or present drug dependency, whether the person is on bail pending
885 adjudication of a prior charge, whether the acts alleged involve abuse as defined in section 1 of
886 chapter 209A, violation of a temporary or permanent order issued pursuant to section 18 or 34B
887 of chapter 208, section 32 of chapter 209, section 3,4 or 5 of chapter 209A or section 20 of
888 chapter 209C, whether the person has any history of issuance of such orders pursuant to the
889 aforesaid sections, whether the person is on probation, parole or other release pending
890 completion of sentence for any conviction and whether the person is on release pending sentence
891 or appeal for any conviction. The person authorized to take bail shall have immediate access to
892 all pending and prior police and incident reports related to the person detained, upon oral,
893 telephonic, facsimile or electronic mail request. If, after an evaluation of all factors set forth in
894 this paragraph, a written determination is made that there are conditions of release that will
895 reasonably assure the safety of the alleged victim, any other individual and the community, the
896 person authorized to admit the person to bail shall impose such conditions of release. If, after an
897 evaluation of all factors set forth in this paragraph, a written determination is made that there are
898 no conditions of release that will reasonably assure the safety of the alleged victim or any other
899 individual or the community, the person shall be held and transferred automatically, and without
900 a motion from the commonwealth, for an appearance and hearing pursuant to section 58A at the
901 next sitting of the court; provided, however, that the commonwealth may decline such a hearing
902 and instead proceed under section 58 and request cash bail or under section 58B revocation of
903 release. If, after an evaluation of all the factors set forth in this paragraph, a person is to be
904 admitted to bail, a written determination shall be made as to why admittance is supported and
905 which conditions will reasonably assure the safety of the alleged victim or any other individual
906 or the community. The person shall, prior to admittance, be provided with informational
907 resources related to domestic violence by the person admitting the arrestee to bail, which shall
908 include, but is not limited to, a list of certified batterer intervention programs located within or
909 near the court's jurisdiction. If the defendant is released on bail from the place of detention, a
910 reasonable attempt shall be made to notify the victim of the defendant's release by the arresting
911 police department. If the defendant is released on bail by order of a court a reasonable attempt
912 shall be made to notify the victim of the defendant release by the district attorney.

913 The commonwealth shall be the only party permitted to move for arraignment, within 3
914 hours of a complaint being signed by a magistrate or the magistrate's designee, for a person
915 charged with violation of an order issued pursuant to section 18 or 34B of chapter 208, section
916 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 of chapter 209C, or a violation
917 of section 13K, 13M, 13N or 15D of chapter 265.

918 SECTION 39. Section 58A of said chapter 276, as so appearing, is hereby amended by
919 inserting after the figure “(3)”, in line 29, the following words:- ; provided, however, a person
920 arrested and charged with a violation of an order issued pursuant to section 18 or 34B of chapter
921 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C or
922 any act that would constitute abuse as defined in section 1 of said chapter 209A, or a violation of
923 section 13M of chapter 265 shall not be admitted to bail sooner than 6 hours after arrest and
924 every effort shall be made to assess bail no more than 8 hours after the arrest.

925 SECTION 40. Said section 58A of said chapter 276, as so appearing, is hereby further
926 amended by striking out, in line 92, the words “ninety days excluding any period of delay as
927 defined in Massachusetts Rules of Criminal Procedure Rule 36(b)(2)” and inserting in place
928 thereof the following:- 90 days; provided, that such 90 days shall not include any period of delay
929 as defined in Rule 36(b)(2) of the Massachusetts Rules of Criminal Procedure. If the
930 commonwealth moves to reopen a hearing, pursuant to the provisions of subsection (4), wherein
931 a person was detained pursuant to this subsection following the initial hearing, that person may
932 be detained up to 90 additional days if a judge finds by clear and convincing evidence that the
933 new information or change in circumstances presented so warrants the additional detention. A
934 person detained under this subsection shall not be detained for a period exceeding 180 days.

935 SECTION 41. The second paragraph of subsection (4) of said section 58A of said chapter
936 276, as so appearing, is hereby amended by inserting after the fifth sentence the following
937 sentence:- Prior to the summons of an alleged victim, or a member of the alleged victim’s family,
938 to appear as a witness at the hearing, the person shall demonstrate to the court, ex-parte and
939 under oath, a good faith basis for the person’s reasonable belief that the testimony from the
940 witness will support a conclusion that there are conditions of release that will reasonably assure
941 the safety of any other person or the community. Such ex-parte motion and hearing shall be
942 impounded.

943 SECTION 42. Said section 58A of said chapter 276, as so appearing, is hereby further
944 amended by inserting after the word “hearing”, in line 115, the following words:- , and the judge
945 shall consider hearsay contained in a police report or the statement of an alleged victim or
946 witness.

947 SECTION 43. The second paragraph of subsection (4) of said section 58A of said chapter
948 276, as so appearing, is hereby amended by striking out the last sentence and inserting in place
949 thereof the following sentence:- The hearing may be reopened before or after a determination by
950 the judge, at any time before trial, upon a motion of the commonwealth or the person detained
951 and a finding by the judge that information exists that was not known at the time of the hearing
952 or that there has been a change in circumstances, and that such information or change in
953 circumstances has a material bearing on the issue of whether there are conditions of release that
954 will reasonably assure the safety of any other person or the community.

955 SECTION 44. Said section 58A of said chapter 276, as so appearing, is hereby further
956 amended inserting after the word “conviction”, in lines 153 and 154, the following words:- ;
957 provided, however, that if the person is held under arrest for a violation of an order issued
958 pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of 209A
959 or section 15 of chapter 209C or any act that would constitute abuse as defined in section 1 of
960 said chapter 209A or a violation of sections 13K, 13M, 13N or 15D of chapter 265, said justice
961 shall make a written determination as to the considerations required by this subsection.

962 SECTION 45. Said section 58A of said chapter 276, as so appearing is hereby further
963 amended by adding the following subsection:-

964 (8) If, after a hearing pursuant to subsection (4), detention pursuant to subsection (3) is
965 ordered or pretrial release subject to conditions under subsection (2) is ordered, then:

966 (A) the clerk shall immediately notify the probation officer of the order; and

967 (B) the order of detention pursuant to subsection (3) or order of pretrial release subject to
968 conditions pursuant to subsection (2) shall be recorded in the defendant’s criminal record as
969 compiled by the commissioner of probation pursuant to section 100.

970 SECTION 46. Section 58B of said chapter 276, as so appearing, is hereby amended by
971 striking out, in line 2, the words “section 58 or section 58A” and inserting in place there of the
972 following words:- section 42A, 58, or 58A.

973 SECTION 47. The executive office of public safety and security shall, in consultation
974 with the court administrator, adopt rules and regulations for: (i) the standardization and
975 dissemination to the district attorney, assistant district attorney, defense counsel and presiding
976 justice, of an individual’s criminal and civil court history, which shall include, at a minimum, (1)
977 a record of a dangerousness hearing pursuant to section 58A of chapter 276 of the General Laws,
978 whether or not a dangerousness determination was made; (2) pretrial detention or release
979 conditions as agreed to pursuant to said section 58A of said chapter 276; (3) all temporary or
980 permanent restraining orders and affidavits issued pursuant to section 18 or 34B of chapter 208,
981 section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 of chapter 209C of the
982 General Laws; (4) any violation of such temporary or permanent restraining orders; (5) a
983 misdemeanor or felony involving abuse, as defined in section 1 of said chapter 209A; (6) any
984 written findings of fact issued pursuant to sections 42A, 56A, 57, 58 and 58A of said chapter
985 276; (7) any records concerning persons on probation maintained by the commissioner of
986 probation pursuant to section 100 of said chapter 276, including any out-of-state criminal record;
987 and (8) any other information maintained in and disseminated in accordance with the statewide
988 domestic violence record keeping system maintained by the commissioner of probation; and (ii)
989 updating the collection, storage, access, dissemination, content and use of criminal offender
990 record information to reflect the inclusion of dangerousness hearing information pursuant to
991 subsection (8) of said section 58A of said chapter 276.

992 SECTION 48. The chief administrator of the trial court department, in conjunction with
993 the commissioner of probation, the Massachusetts office for victim assistance, the colonel of
994 state police, Jane Doe, Inc., and local community-based domestic violence, rape, and sexual
995 assault service providers selected by Jane Doe, Inc., shall develop and implement, subject to
996 appropriation, a program for the dissemination of information on domestic violence and sexual
997 violence prevention services available within each county to: (i) individuals filing a complaint
998 pursuant to sections 3, 4 or 5 of chapter 209A of the General Laws; (ii) parties subject to an
999 order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209 of the
1000 General Laws, said chapter 209A or section 15 of chapter 209C of the General Laws; (iii)
1001 persons held under arrest for an offense set forth in subsection (1) of section 58A chapter 276 of
1002 the General Laws, which involves abuse, as defined in section 1 of said chapter 209A; and (iv)
1003 any other similarly situated individual accessing a court within that county.

1004 SECTION 49. The department of elementary and secondary education shall develop and
1005 produce educational materials on domestic violence, teen dating violence, and healthy
1006 relationships, which shall be distributed annually to students in grades 9 to 12, inclusive. Such
1007 educational materials shall be utilized as part of the required health curriculum on safe and
1008 healthy relationships required by section 1 of chapter 71 of the General Laws.

1009 SECTION 50. School districts or charter schools may provide teen dating violence
1010 prevention education as part of the health education program it provides to students in grades
1011 five through twelve. Each school district or charter school may establish a curriculum or
1012 materials to address this issue, which may be used by school districts. School districts and
1013 charter schools may use school personnel or outside consultants for the education.

1014 School districts and charter schools may establish and implement an age-appropriate
1015 curriculum to educate students about domestic violence. A domestic violence curriculum may
1016 contain components to raise awareness, promote healthy behaviors in relationships, allow
1017 students to identify behaviors associated with an abuser. A curriculum may also contain an
1018 emphasis on the primary prevention of violence perpetration.

1019 A curriculum may also address the risk factors for perpetration of domestic violence and
1020 contain information about behavior that may occur with domestic violence. In addition, it may
1021 advise students about the physical and mental injuries that may occur. A curriculum may include
1022 information about how victims may seek assistance or how friends or families of victims may
1023 assist them.

1024 A school district or charter school may cooperate with other governmental, nonprofit, or
1025 private entities, to develop a curriculum.

1026 SECTION 51. Any funds remaining in the Domestic Violence Prevention and Victim
1027 Assistance Fund established pursuant to said section 14 of chapter 258B of the General Laws
1028 shall be transferred to the General Fund on or before June 30, 2017.

1029 SECTION 52. The department of elementary and secondary education shall develop a
1030 pilot instructional initiative, to be administered by the Katie Brown Educational Program, Inc.
1031 The program shall consist of professional development workshops throughout the school year,
1032 for the purposes of informing and educating those in attendance about the problems and
1033 challenges of relationship violence in their schools, and use the venue as an opportunity to begin
1034 to address the issues and teach safe and healthy alternatives to violence in their schools.

1035 SECTION 53. Sections 19 to 25, inclusive, shall take effect on July 1, 2014.

1036 SECTION 54. Section 26 shall take effect on June 30, 2017.

1037 SECTION 55. Sections 1, 5, 8 and 17 shall take effect on January 1, 2015; and by
1038 striking out

1039 the title and inserting in place thereof the following title: "An Act relative to domestic
1040 violence".