

# SENATE . . . . . No. 2334

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## The Commonwealth of Massachusetts

—————  
In the Year Two Thousand Fourteen  
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SENATE, July 31, 2014

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

For the Committee:

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

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An Act relative to domestic violence.

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

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

1           SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section  
2   116A, as appearing in the 2012 Official Edition, and inserting in place thereof the following  
3   section:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

431 SECTION 13. Chapter 149 of the General Laws is hereby amended by inserting after  
432 section 52D the following section:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

528 (iv) required in the course of an investigation authorized by law enforcement, including,

529 but not limited to, an investigation by the attorney general; or

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

531 (g) An employee seeking leave under this section shall exhaust all annual or vacation

532 leave, personal leave and sick leave available to the employee, prior to requesting or taking leave

533 under this section, unless the employer waives this requirement.

534 (h) No employer shall coerce, interfere with, restrain or deny the exercise of, or any

535 attempt to exercise, any rights provided under this section or to make leave requested or taken

536 hereunder contingent upon whether or not the victim maintains contact with the alleged abuser.

537 (i) No employer shall discharge or in any other manner discriminate against an employee

538 for exercising the employee's rights under this section. The taking of leave under this section

539 shall not result in the loss of any employment benefit accrued prior to the date on which the leave

540 taken under this section commenced. Upon the employee's return from such leave, the employee

541 shall be entitled to restoration to the employee's original job or to an equivalent position.

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

543 equitable relief to enforce this section.

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

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

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

554 SECTION 14. Section 150 of said chapter 149, as appearing in the 2012 Official Edition,  
555 is hereby amended by inserting after the figure “33E”, in line 20, the following figure:- , 52E.

556 SECTION 15. Section 3 of chapter 209A of the General Laws, as so appearing, is hereby  
557 amended by striking out, in line 149, the word “except” and inserting in place thereof the  
558 following words:- including.

559 SECTION 16. Said section 3 of said chapter 209A, as so appearing, is hereby further  
560 amended by inserting after the word “support”, in line 149, the following words:- ; provided,  
561 however, that upon issuing an order for custody or support, the superior, district or Boston  
562 municipal court shall provide a copy of the order to the probate and family court department of  
563 the trial court that issued the prior or pending custody or support order immediately; provided  
564 further, that such order for custody or support shall be for a fixed period of time, not to exceed  
565 30 days; and provided further, that such order may be superseded by a subsequent custody or

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

571 SECTION 17. The second paragraph of section 7 of said chapter 209A, as so appearing,  
572 is hereby amended by inserting, after the first sentence the following sentence:- Law  
573 enforcement agencies shall establish adequate procedures to ensure that, when effecting service  
574 upon a defendant pursuant to this paragraph, a law enforcement officer shall, to the extent  
575 practicable: (i) fully inform the defendant of the contents of the order and the available penalties  
576 for any violation of an order or terms thereof and (ii) provide the defendant with informational  
577 resources, including, but not limited to, a list of certified batterer intervention programs,  
578 substance abuse counseling, alcohol abuse counseling and financial counseling programs located  
579 within or near the court's jurisdiction.

580 SECTION 18. Said section 7 of said chapter 209A, as so appearing, is hereby further  
581 amended by inserting after the word "order", in line 50, the following words:- , or as a condition  
582 of a continuance without a finding.

583 SECTION 19. Subsection (a) of section 3 of chapter 209C of the General Laws, as so  
584 appearing, is hereby amended by adding the following sentence:- No court shall make an order  
585 providing visitation rights to a parent who was convicted of rape, under sections 22 to 23B,  
586 inclusive, of chapter 265 or section 2, 3, 4 or 17 of chapter 272, and is seeking to obtain  
587 visitation with the child who was conceived during the commission of that rape, unless the judge

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

595 SECTION 20. The first paragraph of subsection (e) of section 10 of said chapter 209C, as  
596 so appearing, is hereby amended by adding the following sentence:- For the purposes of this  
597 section, if the child was conceived during the commission of a rape and the parent was convicted  
598 of said rape, under sections 22 to 23B, inclusive, of chapter 265 or section 2, 3, 4 or 17 of  
599 chapter 272, said conviction shall be conclusive evidence of a serious incident of abuse by the  
600 convicted parent.

601 SECTION 21. Chapter 211B of the General Laws is hereby amended by inserting after  
602 section 9A the following section:-

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

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

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

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

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

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

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

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

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

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

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

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



650 SECTION 22. Section 26 of chapter 218 of the General Laws, as appearing in the 2012  
651 Official Edition, is hereby amended by striking out, in line 18, the words “fifteen A and twenty-  
652 one A” and inserting in place thereof the following words:- 15A, 15D, 21A and 26 .

653 SECTION 23. The first paragraph of section 8 of chapter 258B of the General Laws, as  
654 so appearing, is hereby amended by inserting after the third sentence the following sentence:-  
655 The court shall impose an additional domestic violence prevention and victim assistance  
656 assessment of \$50 for: (i) any violation of an order issued pursuant to sections 18 or 34B of  
657 chapter 208, section 32 of chapter 209, sections 3, 4 or 5 of chapter 209A or section 15 or 20 of  
658 chapter 209C; (ii) a conviction or adjudication for an act which would constitute abuse, as  
659 defined in section 1 of chapter 209A; or (iii) a violation of section 13M or 15D of chapter 265,  
660 which shall be deposited in the Domestic and Sexual Violence Prevention and Victim Assistance  
661 Fund, established in section 20 of chapter 17.

662 SECTION 24. Said section 8 of said chapter 258B, as so appearing, is hereby further  
663 amended by striking out the seventh sentence and inserting in place thereof the following  
664 sentence:-

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

672 SECTION 25. Said section 8 of said chapter 258B, as so appearing, is hereby further  
673 amended by inserting after the word “assessment”, in line 50, the following words:- and the  
674 domestic violence prevention and victim assistance assessment .

675 SECTION 26. Chapter 265 of the General Laws is hereby amended by striking out  
676 section 13M, as so appearing, and inserting in place thereof the following section:-

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

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

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

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

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

697 SECTION 27. Said chapter 265 is hereby further amended by inserting after section 15C  
698 the following section:-

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

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

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

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

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

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

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

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

728 SECTION 28. Section 20D of chapter 276 of the General Laws, as appearing in the 2012  
729 Official Edition, is hereby amended by inserting after the word “governor”, in line 8, the  
730 following words:- ; provided, however, that if such person is arrested for a crime committed in  
731 the commonwealth, any bail by bond or undertaking shall be assessed pursuant to sections 42,  
732 42A, 57, 58 and 58A.

733 SECTION 29. Section 42 of said chapter 276, as so appearing, is hereby amended by  
734 inserting after the word ‘trial’, in line 6, the following words:- ; provided, however, that if a  
735 person is arrested for a violation of an order issued pursuant to section 18 or 34B of chapter 208,  
736 section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C

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

740 SECTION 30. Section 42A of said chapter 276, as so appearing, is hereby amended by  
741 inserting after the word “of”, in line 7, the following words:- bail or.

742 SECTION 31. Said section 42A of said chapter 276, as so appearing, is hereby further  
743 amended by inserting after the first paragraph the following 3 paragraphs:-

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

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

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

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

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

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

788 SECTION 33. Said chapter 276 is hereby further amended by inserting after section 56  
789 the following section:-

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

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

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

810           SECTION 34. Section 57 of said chapter 276, as appearing in the 2012 Official Edition,  
811 is hereby amended by inserting after the first paragraph the following 3 paragraphs:-

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



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

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

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

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

851 SECTION 35. Section 58 of said chapter 276, as so appearing, is hereby amended by  
852 inserting after the first paragraph the following 3 paragraphs:-

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

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

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

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

879           SECTION 36. Section 58A of said chapter 276, as so appearing, is hereby amended by  
880 striking out, in line 92, the word "ninety" and inserting in place thereof the following figure:-  
881 120.

882           SECTION 37. The second paragraph of subsection (4) of said section 58A of said chapter  
883 276, as so appearing, is hereby amended by inserting after the fifth sentence the following  
884 sentence:- Prior to the summons of an alleged victim, or a member of the alleged victim's family,  
885 to appear as a witness at the hearing, the person shall demonstrate to the court a good faith basis  
886 for the person's reasonable belief that the testimony from the witness will be material and  
887 relevant to support a conclusion that there are conditions of release that will reasonably assure  
888 the safety of any other person or the community.

889           SECTION 38. Said section 58A of said chapter 276, as so appearing, is hereby further  
890 amended by inserting after the word "hearing", in line 115, the following words:- and the judge

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

893 SECTION 39. The second paragraph of subsection (4) of said section 58A of said chapter  
894 276, as so appearing, is hereby amended by striking out the last sentence and inserting in place  
895 thereof the following sentence:- The hearing may be reopened by the judge, at any time before  
896 trial, or upon a motion of the commonwealth or the person detained if the judge finds that: (i)  
897 information exists that was not known at the time of the hearing or that there has been a change  
898 in circumstances and (ii) that such information or change in circumstances has a material bearing  
899 on the issue of whether there are conditions of release that will reasonably assure the safety of  
900 any other person or the community.

901 SECTION 40. Said section 58A of said chapter 276, as so appearing, is hereby further  
902 amended by inserting after the word “conviction”, in lines 153 and 154, the following words:- ;  
903 provided, however, that if the person who has attained the age of 18 years is held under arrest for  
904 a violation of an order issued pursuant to section 18 or 34B of chapter 208, section 32 of chapter  
905 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C or any act that would  
906 constitute abuse, as defined in section 1 of said chapter 209A, or a violation of sections 13M or  
907 15D of chapter 265, said justice shall make a written determination as to the considerations  
908 required by this subsection which shall be filed in the domestic violence record keeping system.

909 SECTION 41. Said section 58A of said chapter 276, as so appearing, is hereby further  
910 amended by adding the following subsection:-

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

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

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

920 SECTION 43. The court administrator shall, in consultation with the executive office of  
921 public safety and security adopt rules and regulations for the standardization and dissemination  
922 to the district attorney, assistant district attorney, defense counsel and presiding justice, of an  
923 individual's criminal and civil court history, which shall include, at a minimum: (1) a record of a  
924 dangerousness hearing pursuant to section 58A of chapter 276 of the General Laws, whether or  
925 not a dangerousness determination was made; (2) pretrial detention or release conditions as  
926 agreed to pursuant to said section 58A of said chapter 276; (3) all temporary or permanent  
927 restraining orders and affidavits issued pursuant to section 18 or 34B of chapter 208 of the  
928 General Laws, section 32 of chapter 209 of the General Laws, section 3, 4 or 5 of chapter 209A  
929 of the General Laws or section 15 or 20 of chapter 209C of the General Laws; (4) any violation  
930 of such temporary or permanent restraining orders; (5) a misdemeanor or felony involving abuse,  
931 as defined in section 1 of said chapter 209A; (6) any written findings of fact issued pursuant to  
932 sections 42A, 56A, 57, 58 and 58A of said chapter 276; (7) any records concerning persons on  
933 probation maintained by the commissioner of probation pursuant to section 100 of said chapter  
934 276, including any out-of-state criminal record; (8) any other information maintained in and  
935 disseminated in accordance with the statewide domestic violence record keeping system

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

940 SECTION 44. The chief administrator of the trial court department, in conjunction with  
941 the commissioner of probation, the Massachusetts office for victim assistance, the colonel of  
942 state police, Jane Doe, Inc., and local community-based domestic violence, rape, and sexual  
943 assault service providers selected by Jane Doe, Inc., shall develop and implement, subject to  
944 appropriation, a program for the dissemination of information on domestic violence and sexual  
945 violence prevention services available within each county to: (i) individuals filing a complaint  
946 pursuant to sections 3, 4 or 5 of chapter 209A of the General Laws; (ii) parties subject to an  
947 order issued pursuant to section 18 or 34B of chapter 208 of the General Laws, section 32 of  
948 chapter 209 of the General Laws, said chapter 209A or section 15 or 20 of chapter 209C of the  
949 General Laws; (iii) persons held under arrest for an offense set forth in subsection (1) of section  
950 58A chapter 276 of the General Laws, which involves abuse, as defined in section 1 of said  
951 chapter 209A; and (iv) any other similarly situated individual accessing a court within that  
952 county.

953 SECTION 45. The department of elementary and secondary education shall, subject to  
954 appropriation, develop and produce educational materials on domestic violence, teen dating  
955 violence and healthy relationships, which shall be distributed annually to students in grades 9 to  
956 12, inclusive. Such educational materials shall be utilized as part of the required health  
957 curriculum on safe and healthy relationships required by section 1 of chapter 71 of the General  
958 Laws.

959 SECTION 46. The department of public health shall ensure that not less than the amount  
960 credited to the Domestic and Sexual Violence Prevention and Victim Assistance Fund, under  
961 section 20 of chapter 17 of the General Laws, shall be expended to support innovative services to  
962 prevent domestic and sexual violence and assist victims of domestic and sexual violence in the  
963 commonwealth provided through item 4513-1130 of the Massachusetts management and  
964 accounting reporting system.

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

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

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

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



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

1010 SECTION 50. Sections 1, 5, 9 and 21 shall take effect on July 1, 2015.

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