Disability Law Center's
Self-Advocacy Materials

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Resources for Survivors of Domestic Violence or Sexual Assault

This document is designed for people with disabilities. The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

https://dlc-ma.org

Guide to Restraining Orders (M.G.L. 209A) and Harassment Prevention Orders (M.G.L 258E)

You Will Learn About:

- The Criteria for obtaining a Restraining order under M.G.L. c. 209A
- The Criteria for obtaining a Harassment Prevention Order under M.G.L. c. 258E
- Step by Step Process of Obtaining an Order from the Court
- How to get Reasonable Accommodations for Court Proceedings
- List of Agencies and Resources for Survivors of Crime and Domestic Violence

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

What is a 209A Restraining Order?

A 209A Restraining Order is a court order that protects you from being abused by:

- a family or household member, or a former member of your household or family;

Or

- Someone you have been dating.

It is called a 209A restraining order because the law that created it is Massachusetts General Laws Chapter 209A. In court, the Plaintiff is the person who asks the court to issue the order, and the Defendant is the person whom the order is issued against.

Restraining orders are also sometimes called "protective orders," "abuse prevention orders," or "209As."

A 209A restraining order says that a person **must not** do certain things like abuse you, threaten you, contact you, or come within a certain distance of you. The person can be ordered to leave the home, continue to pay utility bills, and to stay away from your place of work. You can ask the court to give you custody of children and to order the Defendant to pay child support. The person can also be ordered to give up any firearms they have.

If the person does these things anyway while a restraining order is in effect, they are “violating” the order. It is a **crime to violate a 209A restraining order.**

You should contact the local police department immediately if the Defendant has violated the terms of an active restraining order. The police can investigate and arrest the Defendant. The police may press charges, and violation of a restraining order is punishable by up to 2.5 years in the house of correction.

Who Can I get a 209A restraining order against?

You can ask for a 209A restraining order against a person if:

- You are or were married to the person;
- You are or were in a serious dating relationship with the person;
- You have one or more children with the person;
- You live or used to live in the same home; or
- You are related by blood or marriage to that person (for example a sibling, cousin, brother or sister in-law).

Can I get a 209A restraining Order if the Person Didn’t Hit Me?

Yes. You can get a restraining order against any person on the list above who has:

- **Hurt** you physically;

- **Tried** to hurt you physically;
- **Made you scared** or **threatened** they would physically hurt you;
- **Forced you to have sex or sexual contact** by pressuring you, threatening you, or making you feel you have no choice;
- **Exercised "coercive control"** over you either through a single act or a pattern of behavior to threaten, intimidate, harass, isolate or control you.

Will a Restraining Order Make Me Safer?

A restraining order can be a helpful tool for a lot of people, and can help many people feel safer. But sometimes, trying to get a restraining order can make things worse or put someone in more danger.

A restraining order is an official order from a court. It tells the abusive person that you are serious about stopping the abuse. It might scare the abusive person into leaving you alone. But, a restraining order might not be enough to stop the abusive person from hurting you. Sometimes a court order makes an abusive person angrier.

If you have a restraining order the police can help you. The order gives the police the power to arrest the abusive person for doing things that are in violation of the order. But the order only works if you are willing to call the police and report the abusive person.

You know the person who is abusing you. **You** know if they are someone who will respect an order from a court. **You** know if they are someone who won't care if there is a court order and will do whatever they want anyway. You also know if getting an order from a court is likely to make that person mad enough to want to hurt you more.

A Restraining order should be one part of your **Safety plan**. You should think about all the ways that you can protect yourself. You can get help with making a safety plan. Most domestic violence advocacy programs have counselors who can talk to you and help you make a plan. A restraining order is only a part of your overall safety plan. Speak with a domestic violence advocate for more help with safety planning.

What is a Harassment Prevention Order?

A Harassment Prevention Order is a court order to protect you from harassment and abuse by someone who has done any of these things:

- Criminal Harassment
- Stalking
- Sexual Assault

Harassment Prevention Orders are often called "258E orders" because of the law that created them, Massachusetts General Laws Chapter 258E.

Unlike **209A Restraining Orders**, to get a Harassment Prevention Order:

- You do **NOT** have to have any relationship with the person
- In other words, you do not have to have a romantic, family, or domestic relationship with the defendant.
- You do have to show that you suffered from 3 or more incidents of harassment, or certain crimes like sexual assault or stalking.

What Can a Harassment Prevention Order do?

The court can order the defendant:

- Not to abuse or harass you.
- Not to contact you.
- To stay away from your home or workplace.
- To pay you for the losses you suffered because of the harassment such as:
    - loss of earnings,
    - out-of-pocket losses for injuries you suffered or property that was damaged,
    - cost of replacement locks,
    - medical expenses,
    - cost for getting an unlisted phone number, and
    - reasonable attorney's fees.
- To surrender firearms and firearms licenses and identification cards.

What is "Harassment"?

To get a Harassment Prevention Order, you must show that the defendant "harassed" you. Harassment is:

- 3 or more acts of willful and malicious conduct aimed at you and committed with the intent to cause fear, intimidation, abuse or damage to property that does in fact cause fear, intimidation, abuse or damage to property.
- "Willful" means on purpose.
- "Malicious" means cruel, hostile, or in revenge

Or

- An act (can be a single act) that:
    - by force, threat, or duress causes you to involuntarily engage in sexual relations, **or**
    - violates certain specific criminal laws. Those criminal laws deal with:

- Indecent assault and battery on a child under 14.
- Indecent assault and battery on a person with an intellectual disability.
- Indecent assault and battery on a person 14 years old or older.
- Rape.
- Rape of a child using force.
- Rape and abuse of a child.
- Assault with intent to commit rape.
- Assault of a child with the intent to commit rape.
- Enticement of a child.
- Criminal stalking.
- Criminal harassment.
- Drugging for sexual intercourse.

Differences from 209A Restraining Orders

Unlike 209A restraining orders, 298E harassment prevention orders **cannot**:

- Order the defendant to leave a shared home.
- Include orders about children like custody, visitation, or child support.

Step by Step Process on Obtaining an Order from the Court

- If you feel unsafe or in danger call the police or 911.
- You may go to the courthouse anytime it is open and ask to apply for a protective order.
- You do not need an appointment. If the court is closed and you need a protective order, go to the police.
- Once inside the courthouse, Ask the court clerk inside the Clerk's or Register's office for help. Let them know you need a protective order. If you need ASL interpreters or captioning services, you may ask the court clerk to arrange for captioning and/or ASL interpreter services to communicate with them. If you need to communicate with them in another language, you may request interpreters in the language you need for communication access.
- **Fill out the application packet.** There are forms that need to be filled out to obtain an order from the court. These forms ask questions about you, the other person and why you need a protective order.
- Many courthouses have advocates who can help you with the paperwork. If you need help, you may tell the court clerk you want to talk to an advocate. These advocates can help you fill

out the forms and provide you with information for safety planning. They may be able to give you information about where to find free or reduced fee legal services.

- **Go Before the Judge:** The Judge will ask you questions about the information you provided on the forms, and why you need a protective order. You have the right to an Interpreter in the language you need to communicate with the Judge. If you do not understand something the Judge says, you may ask for the Judge to explain further.

- **These Hearings are Public:** You should be aware there may be other people in the courtroom during your testimony.

- **Victim Advocates:** You may request support from Domestic Violence or other advocates to sit with you in the courtroom for support before you testify.

- **The Judge will make a decision on your request for a protective order on the same day.** The Judge will make a decision at the end of the hearing. If the Judge issues a 209A Abuse Protection Order or a 258E Harassment Prevention Order, you will receive a copy of the order. Review the order closely. The order will state when the order expires and the date of the next hearing.

- Please look closely! You may be required to return to court within 10 days, as the first hearing is usually Ex Parte (meaning the Defendant is not present).

- The police will serve the Defendant with a copy of the temporary order. Then, when you return to court for the extension hearing on your request for a 209A or 258E protective order, the Defendant may be present and will have the opportunity to speak. If you feel you may feel unsafe with the Defendant near you in the courthouse, you may consider contacting the court before the hearing to request the support of the Court's Victim Witness Advocate during the proceedings.

- The Judge will then decide whether to extend the order for up to one year.

- **The Judge may deny your request for a protective order.** If this happens, you may want to consult with an advocate or attorney for further advice as to what your options are, including the possibility of appealing the Judge's decision.

How to Request Reasonable Accommodations and/or Communication Access for Court Proceedings

Each Court in Massachusetts has an Americans with Disabilities Act Coordinator. You may find their contact information on each court's website and posted in each court location.

You may also find more information here:

ADA Accessibility at the Courts: https://www.mass.gov/ada-accessibility-at-the-courts

How to ask for a court accommodation under the Americans with Disabilities Act: https://www.mass.gov/info-details/how-to-ask-the-court-for-a-reasonable-accommodation-under-the-americans-with-disabilities-act

If you would like assistance with navigating the process of requesting reasonable accommodations, you may ask the clerks at the court for further assistance.

If you have hearing loss, you may contact the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) to request assistance from an MCDHH Service Navigator to help you with this process. You may request MCDHH Service Navigator services by calling MCDHH at 617-740-1600 (Voice) or 617-326-7546.

You may request ASL interpreters, or captioning services (Communication Access Real-Time Transcription (CART), and assistive listening devices to assist you with communicating with the court's clerks at the clerk's desks, and for all court proceedings, both virtually and in-person.

You can get help applying for a 209A restraining order or a 258E Harassment Prevention Order

- **Ask** the court clerk – many courthouses have advocates who can help you with the paperwork and come to a hearing.
- **Court service centers** can help with the paperwork.
- Use a **guided interview** on Court Forms online. 209A Domestic Violence Restraining Order https://apps.suffolklitlab.org/run/209a/#/1
- You may contact Massachusetts Office for Victim Assistance (MOVA) for help connecting with the right advocate to support you. You may call MOVA in Boston at 617-586-1340 or the Northampton Office 413-387-4300.
- Massachusetts Deaf Domestic Violence and Sexual Assault Agency: https://www.odscma.org/
- Pathways for Change – Deaf Survivors Program: https://pathwaysforchange.help/agency-programs/deaf-survivors-program/
- List of Domestic Violence Services by Massachusetts County: https://www.mass.gov/info-details/list-of-domestic-violence-services-by-massachusetts-county

List of Emergency Service Providers and Shelters for Domestic Violence Survivors in Massachusetts

Residential domestic violence programs/emergency shelter services: https://www.mass.gov/info-details/residential-domestic-violence-programsemergency-shelter-services

SafeLink is Massachusetts' statewide 24/7 toll-free domestic violence hotline and a resource for anyone affected by domestic or dating violence. 877-785-2020

The National Domestic Violence Hotline offers assistance and safety planning 24/7. 1-800-799-SAFE (7233).

Domestic Violence Deaf Services https://www.thehotline.org/get-help/domestic-violence-deaf-services/

National Deaf Services Hotline: 855-812-1001 https://www.thedeafhotline.org/