

**HOUSE . . . . . No. 4037**

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

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The Commonwealth of Massachusetts

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

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

4 Section 116A. (a) The municipal police training committee shall establish within the  
5 recruit basic training curriculum a course for regional and municipal police training schools for  
6 the training of law enforcement officers in the commonwealth in the handling of domestic  
7 violence and sexual violence complaints and also shall develop guidelines for law enforcement  
8 response to domestic violence and sexual violence. The course of instruction and the guidelines  
9 shall stress enforcement of criminal laws in domestic violence and sexual violence situations,  
10 availability of civil remedies and community resources and protection of the victim. Where  
11 appropriate, the training presenters shall include domestic violence and sexual violence experts  
12 with expertise in the delivery of direct services to victims of domestic violence and sexual  
13 violence, including utilizing the staff of community based domestic violence, rape and sexual  
14 assault service providers and survivors of domestic violence, rape or sexual assault in the  
15 presentation of the training.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

127 (5) review reports from local review teams;

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

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

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

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

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

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

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

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

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

166 (2) execute a confidentiality agreement;

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

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

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

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

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

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

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

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

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

191 The district attorney may enforce this subsection by seeking an order of the superior  
192 court.

193 (e) Any privilege or restriction on disclosure established pursuant to chapter 66A, section  
194 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapter 112, chapter 123 or

195 sections 20B, 20J, 20K or 20M of chapter 233 or any other law relating to confidential  
196 communications which would otherwise be held by the victim of a fatality or protect records and  
197 information directly related to such victim shall not prohibit the disclosure of such records or  
198 information, as it directly relates to that victim, to the chair of the state review team or a local  
199 review team. Any privilege or restriction on disclosure pursuant to the aforementioned statutes,  
200 or any other law relating to confidential communications not directly related to the victim of a  
201 fatality shall remain in effect; provided, however, that such privilege or restriction may be  
202 waived, in writing, by the person holding it, for the limited purposes of disclosure to the state  
203 review team or a local review team. Any information considered confidential pursuant to the  
204 aforementioned statutes received by the chair of the state review team or a local review team  
205 may be submitted for a team's review upon the determination of that team's chair that the review  
206 of the information is necessary. The chair shall ensure that no information submitted for a team's  
207 review is disseminated to parties outside the team. Under no circumstances shall any member of  
208 a team violate the confidentiality provisions set forth in the aforementioned statutes.

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

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

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

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

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

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

229           Section 33. The Massachusetts District Attorneys Association shall provide training on  
230 the issue of domestic violence and sexual violence in the commonwealth, at least once

231 biannually, to all district attorneys and assistant district attorneys. Such training shall include, but  
232 not be limited to, the dissemination of information concerning:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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