

HOUSE No. 1388

The Commonwealth of Massachusetts

PRESENTED BY:

David F. DeCoste

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act permitting the purchase and possession of electronic control weapons by abused persons for defensive purposes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>David F. DeCoste</i>	<i>5th Plymouth</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>

HOUSE No. 1388

By Mr. DeCoste of Norwell, a petition (accompanied by bill, House, No. 1388) of David F. DeCoste and others relative to the sale and possession of nonlethal electronic control weapons to certain persons when abuse orders have been issued by a court. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 769 OF 2017-2018.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act permitting the purchase and possession of electronic control weapons by abused persons for defensive purposes.

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

1 SECTION 1. Section 3B of chapter 209A is amended by inserting following the end of
2 the last paragraph the following paragraphs.

3 Whenever there is a demonstration of a substantial likelihood of immediate danger of
4 abuse or whenever there is a demonstration under section 3B that a pattern of abuse or a serious
5 incident of abuse has occurred or whenever there is a demonstration that a defendant has a
6 mental condition that increases the likelihood that the defendant will not obey a court order or
7 increases the likelihood that the defendant will not be deterred by the criminal law, the plaintiff
8 may purchase, rent or lease an electronic control weapon for all lawful purposes under the terms
9 of section 313J of chapter 140. Upon the finding of a demonstration provided above, the court

10 shall notify the plaintiff of the right to make a purchase, rent or lease of an electronic control
11 weapon and, whenever the plaintiff may exercise the right to make a purchase, the court shall
12 provide the plaintiff with a Statement of Emergent Need.

13 In making its determination of whether or not the defendant has a mental condition that
14 increases the likelihood that the defendant will not obey a court order or be deterred by the
15 criminal law, the court may consider the following;

16 (a) Evidence permitted to be considered by the fact finder in section 23(f) of chapter 233.

17 (b) Evidence that the defendant has made statements that he has fixated upon the
18 plaintiff, or that the defendant intends to subject the plaintiff to the defendant's personal control,
19 or that the defendant is controlled by a person, organization or other entity that is in fact unlikely
20 to have the defendant in its control, or that the defendant has delusional ideas based upon
21 religion, governmental entities, mythical characters, or grandiose beings, or that the defendant
22 views the world in an unrealistic way.

23 (c) Evidence that the defendant has taken action preparatory to exercising control over
24 the plaintiff or preparatory to harming the plaintiff.

25 (d) The elements of this section need not be presented by expert testimony but may be
26 considered by the court without expert testimony.