

HOUSE No. 1427

The Commonwealth of Massachusetts

PRESENTED BY:

John D. Keenan

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 passage of the accompanying bill:

An Act relative to domestic violence.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Christine E. Canavan</i>	<i>10th Plymouth</i>

HOUSE No. 1427

By Mr. Keenan of Salem, a petition (accompanied by bill, House, No. 1427) of John D. Keenan, Cory Atkins and Christine E. Canavan relative to domestic violence penalties. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to domestic violence.

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

1 SECTION 1. Chapter 265, as so appearing, is hereby further amended by striking out
2 section 13M, and inserting in place thereof the following section:-

3 Section 13M. (a) Whoever commits an assault or assault and battery on a family or
4 household member, as defined in section 1 of chapter 209A, shall be punished by imprisonment
5 in the house of correction for not more than 2 ½ years or by a fine of not more than \$5,000 or
6 both.

7 (b) Whoever is convicted of committing an assault or assault and battery
8 on a family or household member, after having previously been convicted of, placed on
9 probation for, granted a continuance without a finding for, or otherwise having pleaded guilty to
10 or admitted to a finding of sufficient facts for (1) an assault or assault and battery on a family or
11 household member; (2) an offense that has as an element the use, attempted use, or threatened
12 use of physical force against the person of another; (3) an offense that has as an element the
13 possession, use, or threatened use of a deadly weapon; (4) a “sex offense” as defined in section
14 178C of chapter 6 of the General Laws, or (5) a violation of section 7 of chapter 209A, shall be
15 punished by imprisonment in the state prison for not more than 5 years or in the house of
16 correction for not more than 2 ½ years, or by a fine of not more than \$10,000, or by both such
17 fine and imprisonment.

18 (c) For any violation of this section, or as a condition of a continuance
19 without a finding, the court shall order the defendant to complete a certified batterer’s
20 intervention program unless, upon good cause shown, the court issues specific written findings

21 describing the reasons that batterer's intervention should not be ordered or unless the batterer's
22 intervention program determines that the defendant is not suitable for intervention.

23 SECTION 2. Chapter 265, as so appearing, is hereby further amended by inserting after
24 Section 15C the following section:--

25 Section 15D. (a) For the purposes of this section the following words shall have the
26 following meanings:

27 "Strangulation" shall mean the intentional interference of the normal breathing or
28 circulation of blood by applying pressure on the throat or neck of another.

29 "Suffocation" shall mean the intentional interference of the normal breathing or
30 circulation of blood by blocking the nose or mouth of another.

31 "Serious bodily injury" shall mean bodily injury that results in a permanent
32 disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of
33 death.

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

37 (c) Whoever: (i) strangles or suffocates another and by such strangulation or suffocation
38 causes serious bodily injury; or (ii) strangles or suffocates another who is pregnant at the time of
39 such strangulation or suffocation, knowing or having reason to know that the person is pregnant;
40 or (iii) is convicted of strangling or suffocating another after having been previously convicted of
41 the crime of strangling or suffocating another under this section, or of a like offense in federal
42 court or the court of any state; or (iv) strangles or suffocates another who he or she knows has an
43 outstanding temporary or permanent vacate, restraining or no contact order or judgment issued
44 pursuant to section 18, 34B or 34C of chapter 208 , section 32 of chapter 209, section 3, 4 or 5 of
45 chapter 209A, section 7 or 10 of chapter 209A½, or section 15 or 20 of chapter 209C, in effect
46 against him or her at the time the offense was committed, shall be punished by imprisonment in
47 the state prison for not more than 10 years or in the house of correction for not more than 2½
48 years, and by a fine of not more than \$10,000.

49 SECTION 3. Section 55 of chapter 276, as so appearing, is hereby amended by inserting
50 in line five after the words "or with intent to commit a felony" the following:-

51 or would constitute domestic abuse as defined in section 1 of chapter 209A or a violation
52 of an order issued pursuant to section 3, 4 or 5 of chapter 209A or section 34B or 34C of chapter
53 208.