

HOUSE No. 1579

The Commonwealth of Massachusetts

PRESENTED BY:

John H. Rogers, (BY REQUEST)

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 protective orders.

PETITION OF:

NAME:

Brian Hutchings

DISTRICT/ADDRESS:

183 Albemarle Road, Norwood, MA 02062

HOUSE No. 1579

By Mr. Rogers of Norwood (by request), a petition (accompanied by bill, House, No. 1579) of Brian Hutchings relative to protective orders involving a minor child of the plaintiff and defendant . The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to protective orders.

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 3 of chapter 209A, as appearing in the 2008 edition, is hereby
2 amended by inserting, after line 93, the following paragraph:—

3 When the plaintiff is an adult with a minor child or children in common with the
4 defendant, the plaintiff may only file a complaint for abuse from which the plaintiff is suffering.
5 If the minor child or children of the plaintiff in common with the defendant is also suffering
6 abuse from the defendant, a complaint shall be filed in the probate and family court and such
7 court shall decide the complaint in accordance with section 31A of chapter 208.

8 SECTION 2. The second paragraph of section 4 of said chapter 209A, as so appearing, is
9 hereby amended by adding the following 2 sentences:- During the subsequent hearing, the
10 plaintiff and defendant may provide the court with evidence and testimony on the question of
11 continuing the temporary order or granting such other relief. At the conclusion of said hearing,
12 the court shall make specific written findings of fact.

13 SECTION 3. Said section 4 of said chapter 209A, as so appearing, is hereby further
14 amended by adding the following 3 paragraphs:—

15 If at such subsequent hearing the court determines that the complaint is unfounded and
16 does not extend the protection order, the court shall notify the appropriate law enforcement
17 agencies in writing and shall direct the agencies to destroy all records of such temporary order;
18 provided, however that such agencies shall comply with said directive within 2 business days of
19 receipt of said notice. The office of the commissioner of probation shall destroy all records of

20 any temporary order under this chapter which a court determined was unfounded at such
21 subsequent hearing on or after September 18, 1992.

22 If the temporary order is not continued after the subsequent hearing and the court finds
23 that the complaint is unfounded, the defendant may request that all records of the temporary
24 order be expunged and the court shall direct the commissioner of probation and all law
25 enforcement agencies to expunge said records within 30 days of said finding by the court.

26 If at such subsequent hearing the court finds that there is sufficient evidence to support
27 the extension of the protection order, such temporary order and extension shall become part of
28 the appropriate database as set forth in section 7. Upon the expiration of such order and
29 extension, the defendant may request, no earlier than 24 months after said date, that all records
30 of said order and extension be expunged by the commissioner of probation and all law
31 enforcement agencies. The court shall grant such request and direct the commissioner and such
32 law enforcement agencies to comply with said order and expunge said records within 30 days of
33 said finding by the court.

34 SECTION 4. Section 7 of said chapter 209A, as so appearing, is hereby amended by
35 striking out, in line 5, the words “civil or”.

36 SECTION 5. Said section 7 of said chapter 209A, as so appearing, is hereby further
37 amended by inserting, after the first paragraph, the following paragraph:—

38 Within the statewide domestic violence recordkeeping system, the office of the
39 commissioner of probation shall maintain 2 separate and distinct databases, one for non-violated
40 protection orders and the other for violated protection orders which become part of the domestic
41 violence offense registry when a violation of such order has been found in accordance with this
42 section. The database of intact non violated protection orders shall be administered by the court
43 of proper jurisdiction in its authority to issue such orders and shall not be listed as part of any
44 domestic violence offense registry.