

AM I ELIGIBLE FOR A RESTRAINING ORDER?

ABUSE PREVENTION ORDERS

You may request an Abuse Prevention Order (a “209A Order”) from a judge of this court if:

1. You and your abuser are or were:
 - married,
 - or residing together in the same household,
 - or in a substantive dating or engagement relationship,
 - or related by blood or marriage,
 - or you have a child in common;
2. *and* you are suffering from abuse because your abuser has:
 - harmed or attempted to harm you physically,
 - or put you in fear of imminent serious physical harm,
 - or caused you to engage in sexual relations involuntarily by using force, threat or duress;
3. *and* you:
 - currently live within the geographical area of this court,
 - or used to live within the geographical area of this court but you left to avoid abuse.

A judge may issue an Abuse Prevention Order *without prior notice* to your abuser if there is a substantial likelihood of immediate danger of abuse.

HARASSMENT PREVENTION ORDERS

You may request a Harassment Prevention Order (a “258E Order”) from a judge of this court if:

1. You are suffering from harassment because:
 - someone has committed 3 or more acts:
 - that were willful and malicious,
“Malicious” means characterized by cruelty, hostility or revenge.
 - and were aimed at you,
 - and were intended to cause you fear, intimidation, abuse or damage to property,
“Abuse” means causing or attempting to cause physical harm, or causing fear of imminent serious physical harm.
 - and did in fact cause you fear, intimidation, abuse or damage to property;
 - *or* someone has caused you at least once to engage in sexual relations involuntarily by using force, threat or duress;
 - *or* someone has committed against you at least once an act that violates any of the following statutes: General Laws chapter 265, §§ 13B, 13F or 13H (indecent assault and battery), 22 or 22A (rape), 23 (statutory rape), 24 or 24B (assault with intent to rape), 26C (enticing a child), 43 (criminal stalking), 43A (criminal harassment), or chapter 272, § 3 (drugging for sexual intercourse);
2. *and* you currently live within the geographical area of this court.

A judge may issue a Harassment Prevention Order *without prior notice* to your harasser if there is a substantial likelihood of immediate danger of harassment.

SUBSTANTIVE DIFFERENCES BETWEEN G.L. c. 209A and G.L. c. 258E

| | <i>Abuse Prevention Orders (G.L. c. 209A)</i> | <i>Harassment Prevention Orders (G.L. c. 258E)</i> |
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| <i>Jurisdiction</i> | <ul style="list-style-type: none"> • District Court & BMC • Probate & Family Court • Superior Court (<i>except for dating relationships</i>) | <ul style="list-style-type: none"> • District Court & BMC • Juvenile Court (<i>if both parties under 17</i>) • Superior Court |
| <i>Venue</i> | <ul style="list-style-type: none"> • Plaintiff's residence • Plaintiff's former residence left to avoid abuse | <ul style="list-style-type: none"> • Plaintiff's residence |
| <i>Eligibility for relief</i> | <p>“Suffering abuse”</p> <p>“Abuse” is any of the following acts between family or household members:</p> <ul style="list-style-type: none"> • attempting to cause or causing physical harm • <i>or</i> placing another in fear of imminent serious physical harm • <i>or</i> causing another to engage involuntarily in sexual relations by force, threat or duress. <p>“Family or Household Members”</p> <ul style="list-style-type: none"> • are or were married to one another • <i>or</i> are or were residing together in the same household • <i>or</i> are or were related by blood or marriage • <i>or</i> have a child in common regardless of whether they have ever married or lived together • <i>or</i> are or have been in a substantive dating or engagement relationship. | <p>“Suffering harassment”</p> <p>“Harassment” is defined as:</p> <ul style="list-style-type: none"> • 3 or more acts– <ul style="list-style-type: none"> □ Each aimed at a specific person □ Each was willful and malicious □ Each was done with intent to cause fear, intimidation, abuse or property damage □ Each did in fact cause fear, intimidation, abuse or property damage • <i>or</i> one act that “by force, threat or duress causes another to involuntarily engage in sexual relations” • <i>or</i> one act that constitutes one of the following: <ul style="list-style-type: none"> □ Indecent A&B on a child (G.L. c.265, §13B) □ Indecent A&B on a mentally retarded person (§13F) □ Indecent A&B (§13H) □ Rape (§22) or Statutory rape (§23) □ Forcible rape of a child (§22A) □ Assault with intent to rape (§24) □ Assault with intent to rape a child (§24B) □ Enticement of a child (§26C) □ Criminal stalking (§43) □ Criminal harassment (§43A) □ Drugging for sexual intercourse (c. 272, §3) <p>“Abuse” is:</p> <ul style="list-style-type: none"> • attempting to cause or causing physical harm to another • <i>or</i> placing another in fear of imminent serious physical harm. <p>“Malicious” is “characterized by cruelty, hostility or revenge.”</p> |
| <i>Eligibility for ex parte relief</i> | Substantial likelihood of immediate danger of abuse | Substantial likelihood of immediate danger of harassment |
| <i>Available relief</i> | <p>Relief may include, but is not limited to:</p> <ul style="list-style-type: none"> • Do not abuse the plaintiff • Do not contact the plaintiff • Vacate and remain away from the plaintiff's household, multiple family dwelling, and workplace • Pay restitution for directly-resulting losses • Impounding information pursuant to court rules • Pay temporary support for the plaintiff and/or child • Temporary custody of a minor child • Surrender firearms, gun licenses and FID cards | <p>Relief is limited to:</p> <ul style="list-style-type: none"> • Do not abuse or harass the plaintiff • Do not contact the plaintiff • Remain away from the plaintiff's household or workplace • Pay restitution for directly-resulting losses • Impounding information pursuant to court rules |