

Constituent Questions on Domestic Violence and Family Law

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How can I protect myself from my partner's violence?

If you are in immediate danger, **dial 911**. To get help, such as shelter or other domestic violence services for you and/or your children, call the 24-hour statewide toll free multi-lingual hotline at 1-877-785-2020. You may also seek a restraining order (209A Abuse Prevention Order) from a local district or probate court. The order can prohibit abuse, prohibit the abuser from going near or contacting you and your children, and prohibit them from going to your workplace or home (even if the abuser lives there or owns or rents the home). The order can also grant you custody of your children and child support. There is no filing fee for 209A orders. Most domestic violence service providers can help you with the 209A process. If you have an open case in the Probate and Family Court, you may benefit from legal advice about your restraining order options.

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Do I have to be married to my abuser to get a restraining order?

No. You can get a restraining order against an ex-spouse, your present or former partner, a relation by blood or marriage, the other parent of your child (even if you never married or lived together) or someone that you're living with. If you're not sure whether your relationship is covered, you can talk to a legal advocate at one of the domestic violence service providers or the victim advocates in most district and some probate courts.

What do I need to show to get a restraining order?

- That the abuser attempted to or actually did cause you physical harm; or
- That they placed you in fear of serious imminent physical harm; or
- That they forced you into sexual relations against your will.

If you can, although you are not required to do so, you may bring to court anything that supports your claim, such as a police report or medical records, pictures of bruises or letters with threats, to show to the judge.

Can I get a restraining order **after hours**?

Yes. If you are in immediate danger, the police will help you get an emergency order over the telephone. An emergency order expires when the courts next open, and you will need to go to court to keep it in place.

Can I get a restraining order **without my partner knowing it**?

A judge can give you a preliminary and temporary order without the alleged abuser being notified in advance. However, your abuser will be notified after you get that order. The temporary order requires that there be another hearing within 10 days, and the alleged abuser will be notified of that hearing so that he/she has the chance to appear in court to contest the order. You may request that your address, telephone number and other identifying information not be on the order. Call legal aid or your local domestic violence service provider for assistance. There is also more information at www.MassLegalHelp.org.

My partner is abusive, but **I'm afraid I won't be able to support my children** if I leave him. What can I do?

Courts issuing restraining orders have the authority to issue child support orders and to make other financial orders such as for payment of household bills or compensation for loss due to the abuse. You can also seek orders for financial support of yourself and your children from the Probate and Family Court, even without seeking a restraining order. Call legal aid for advice or go to www.MassLegalHelp.org for more information.

I am a non-citizen who is being abused by my partner. My partner tells me I will be deported if I report the abuse to the police or get a restraining order. What can I do?

Anyone may apply for a 209A, regardless of citizenship or immigration status. The court should not ask about your immigration status when you are applying for a 209A. If you are the victim of certain crimes, including domestic violence, you may be eligible for immigration relief. Contact a private immigration lawyer or call legal aid. Also, www.MassLegalHelp.org has more information on 209A's.



I want a divorce, but my spouse doesn't agree. What can I do?

Any married person who has met certain residency requirements has the right to a divorce in Massachusetts, whether or not their spouse agrees. You can get the necessary forms and file them at the Probate & Family Court. Once your spouse has been served with the Complaint for Divorce, you can file a Motion for Temporary Orders, if necessary. The judge can enter Temporary Orders regarding custody, visitation, support and other matters while the divorce is pending. Call legal aid or consult the Lawyer for the Day program located in many courts. More information about filing for divorce is at www.MassLegalHelp.org.



My child's other parent won't pay child support even though I have a court order. **What can I do to collect it?**

Child support orders may provide that money may be taken out of the other parent's paycheck ("wage assignment" or "garnishment"). If the support is not being paid, you can file a complaint for contempt to make the payer obey the order. For help, call the Massachusetts Department of Revenue at 1-800-332-2733 or talk to a "Lawyer for the Day" at court.

How does the Court decide **how much child support** I should get or pay?

A worksheet of Child Support Guidelines is used to calculate the amount of support. It weighs the income of both parents, child care and health insurance costs. The worksheet can be found at www.mass.gov/cse or at your local Probate Court.

If my child's other parent loses their job, **will my child support stop?** If I lose my job, **can I get more child support?**

The fact that an employed parent loses a job does not change an existing child support order. A change in the order can be made only after one of the parents goes back to court to have the order reduced or increased. The judge will look at the circumstances surrounding the job loss and decide if the order should be changed. However, you cannot receive income *through the wage assignment* until the other parent gets another job or receives unemployment compensation.

I was reported to the Department of Children and Families for abusing my kids. I didn't do anything. Now DCF is coming to my house to do an investigation. What can I do?

DCF will almost always require a visit with you and the children when it does an investigation, though not necessarily in your home. If you have a lawyer, you should consult with them before any meeting or communication with DCF. If DCF finds you have neglected or abused your children and you disagree with that decision, you can file an appeal with DCF. For more information go to www.MassLegalHelp.org.

I want to take custody of my granddaughter because her parents are involved in drugs. What can I do?

If you believe that her parents are unfit to care for her, you can file a petition in Probate Court to be appointed as your grandchild's guardian. You have to show that her parents are unfit. You also have to give notice to her parents so they can come to court, unless they sign a consent form.

I want to visit my grandson but his parents won't let me see him. What can I do?

Probate & Family Court may grant visitation to some grandparents in some cases. You must show you already have a substantial relationship with your grandchild and that failure to grant visitation would cause him significant harm. This is a very hard standard to meet.

*This information is general in nature and not intended as legal advice. Generally the income eligibility limit for legal aid is 125% of the federal poverty line (or \$591 per week for a family of four in 2017), **although there are certain exceptions**. Call if you are uncertain whether you qualify. **Because their funding is limited, legal aid programs cannot serve all eligible callers.***

Written by MetroWest Legal Services, Neighborhood Legal Services, South Coastal Counties Legal Services, Greater Boston Legal Services, Community Legal Aid, and Massachusetts Law Reform Institute
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Learn more at www.masslegalhelp.org!