

Chapter 260 of the Acts of 2014  
AN ACT RELATIVE TO DOMESTIC VIOLENCE—  
*Section by Section Summary*<sup>1</sup>

**SECTION 1.** *Effective 7/1/15.* Amends the municipal police training committee curriculum to include specific training on handling domestic and sexual violence complaints, lethality factors (including a focus on specific populations that may have different dangerousness factors) for recruits. S/DV training as part of in-service training, subject to appropriation.

Specific reference to the inclusion of S/DV experts with experience in providing direct services to victims of S/DV as training presenters “as appropriate.” MPTC shall develop curriculum in consultation with groups/individuals with an interest and expertise in S/DV.

Requires law enforcement to develop guidelines for responding to S/DV incidents.

**SECTIONS 2-3.** Makes records of dangerousness hearings, regardless of the determination, part of an individual’s Criminal Offender Record Information (CORI).

**SECTION 4.** *Effective 1/1/15.* Establishes state and local domestic fatality review teams. The state team is housed within EOPPS and acts as a steering committee, providing model protocols, rules and training to the local review teams, to assign cases to local teams, review the local teams’ reports, and to provide an annual report to the legislature. The local review teams are assembled when a case is selected for review and is chaired by the local district attorney.

State team members include: EOPSS, AG, Medical Examiner, MDAA, State Police, Probation, Trial Court, Family & Probate Court, and MOVA

Local team members include: District Attorney, medical examiner/pathologist, chief of police, probation officer, legal services, and direct service providers, all of whom must reside or work in the district. Ad hoc members may include: any other person with expertise or information relevant to a case including local/state law enforcement officers, local social services providers, community based S/DV programs, hospital representatives, medical specialists or subspecialists, teacher, family or friends of a victim, and persons recommended by the state review team.

Confidentiality/privilege may not prohibit the teams’ access to information, so long as the information is directly related to the victim. Teams are bound by confidentiality to not share any information outside of team meetings, and information gathered by the teams shall not be subject to subpoena, etc.

**SECTION 5.** *Effective 7/1/15.* Mass District Attorney’s Association (MDAA) shall provide bi-annual training on S/DV, including civil rights and remedies for victims, risk/lethality factors related to DV, to all District Attorneys and Assistant District Attorneys.

---

<sup>1/</sup> Unless otherwise noted, all sections became effective on August 8, 2014.

As appropriate, trainers shall include S/DV experts with expertise in direct services to S/DV victims including community-based S/DV providers.

**SECTION 6.** Creation of the Domestic and Sexual Violence Prevention and Victim Assistance Fund within the Department of Public Health to support innovative practices to prevent S/DV and provide assistance to victims of DV in the Commonwealth (including community based S/DV prevention and assistance providers and services providers, multi-disciplinary teams addressing high risk/fatality, and other programs that support victims of S/DV). Fund credited by appropriations, S/DV prevention and victim assistance assessments (section 8, chapter 258B). Money remaining at end of year shall not be reverted.

**SECTION 7.** Makes all reports of S/DV and communications between police officers and victims confidential and not public. However, all reports will be accessible upon written request by the victim, victim's attorney and others authorized by the victim, victim witness advocates, 20k, 20j S/DV advocates. Reports will also be made accessible upon written, fax, email request to law enforcement, district attorneys, and persons authorized to admit persons to bail if access is necessary to performance of their duties.

**SECTION 8.** Police daily log entries related to responses to reports of S/DV or entries related to the arrest of a person for assault on a family or household member or violation of a protection order will be kept in a separate log and not made public.

**SECTION 9.** *Effective 7/1/15.* Directs various health care related boards of registration (e.g. medicine, nursing, social workers, etc.) to develop and administer standards for licensure that require training and education on S/DV.

**SECTIONS 10-11.** Requires employers who employ 50 or more employees to permit an employee to take up to 15 days of (paid or unpaid) leave annually if he/she or a family member is a victim of "abusive behavior", as defined, and the employee is using the leave to obtain medical attention, counseling, victim services, legal services, secure housing, obtain a protective order, appear in court, meet with a district attorney, attend child custody hearings, or address other issues related to the abusive behavior. The employee may be required to document the need for the leave, methods of which are enumerated in the statute and include a sworn statement by the employee. Different notice requirements apply where the employee (or his/her family member) is at risk for imminent harm and where the harm is not imminent.

**SECTIONS 12-13.** If there is a prior or pending custody support order from the probate and family court, a 209A order issued in superior, district or Boston municipal court may now include orders for custody or support, which was previously excluded. The order then must be provided to the probate and family court immediately, and the order cannot exceed 30 days. Probate and family court shall retain final jurisdiction over any custody or support order.

**SECTION 14.** Requires law enforcement agencies to provide additional information to defendants when serving them with a c. 209A restraining order, including information on batterer’s intervention, alcohol and substance abuse counseling, and financial counseling.

**SECTION 15.** Amends c. 209A § 7 to require completion of a certified batterer’s intervention program as a condition of a continuance without a finding for violation of a c. 209A order, unless the court issues specific written findings describing why it should not be ordered or if the program determines that the defendant is not suitable.

**SECTIONS 16-17.** Prohibits the court from granting visitation rights to a parent convicted of rape, unless the child is old enough to assent to the visitation and that assent is determined to be in the best interests of the child. If a child is conceived during the commission of a rape and the parent is convicted, that conviction is evidence of “serious abuse” by the convicted parent for purposes of custody determinations.

**SECTION 18.** *Effective 7/1/15.* Requires the chief justice of the trial court to provide biannual S/DV training to trial court personnel, specifically including training on lethality factors, information sharing, and the availability of S/DV support services. As appropriate, training presenters shall include S/DV experts.

**SECTION 19.** Establishes concurrent jurisdiction of district and superior courts for strangulation and kidnapping. Superior court, however, maintains exclusive jurisdiction for kidnapping for ransom (G.L. c. 265, § 26, ¶¶ 1-2); kidnapping combined with sexual assault (G.L. c. 265, § 26, ¶ 3); and kidnapping of a child under the age of sixteen (G.L. c. 265, § 26, ¶ 4).

**SECTIONS 20-22.** Imposes an additional \$50 “domestic and sexual violence prevention and victim assistance assessment” for violations of multiple enumerated orders, including c. 209A orders, conviction/adjudication for an act that would constitute abuse under 209A, or the commission of assault and battery on a family/household member (see Section 23) or strangulation/suffocation (see Section 24). Assessments collected will be deposited in the Domestic and Sexual Violence Prevention and Victim Assistance Fund established in SECTION 6 of this legislation.

Amends the option to waive assessments to allow for structured payment and, in DV specific cases, to provide the alternative of community service.

**SECTION 23.** Creates the first offense of assault or assault and battery on a family or household member, which carries with it a maximum penalty of 2 ½ years in the house of corrections and/or a \$5,000 fine. A second or subsequent offense is subject to an enhanced penalty of up to 5 years in state prison. For those convicted of this crime, or as a condition of a continuance without a finding, the court shall order a defendant to complete a certified batterer intervention program unless the court issues specific written findings describing why it should not be ordered or if the batterer’s intervention program determines that the defendant is not suitable.

**SECTION 24.** Creates the specific felony crimes of suffocation and strangulation, which carry with them a maximum penalty of 5 years in state prison and/or \$5,000 fine. For those convicted of this crime, or as a condition of a continuance without a finding, the court shall order a defendant to complete a certified batterer intervention program unless the court issues specific written findings describing why it should not be ordered or if the batterer’s intervention program determines that the defendant is not suitable.

**SECTIONS 25-26.** Amends the Fugitive Act (G.L. c. 276 § 20D) to require bail to be assessed in accordance with G.L. c. 276 §§ 42, 42A, 57, 58 and 58A, where a person is arrested for a crime committed in the commonwealth, and the general bail/commitment provisions (G.L. c. 276 § 42) to require bail for S/DV crimes to be assessed in accordance with G.L. c. 276 §§ 42A, 57, 58 and 58A.

**SECTION 27.** Allows a court to impose, as a condition of bail, terms to protect the safety of the community, the victim or any other individual.

**SECTION 28.** Amends c. 276 § 42A to require, for any DV offense, a 6 hour delay to admit a person to bail unless bail is ordered by a judge in open court. Prior to admitting a person to bail, or release, the court must have immediate access to all an array of information related to the offender’s history and an array of other factors. Requires information on batterer’s intervention programs be given to anyone charged, prior to admitting them to bail. Requires district attorney to make all reasonable attempts to notify victim of the defendant’s release.

**SECTION 29.** Prohibits the use of accord and satisfaction agreements where there has been domestic violence.

**SECTION 30.** In crimes against the person or property, requires a judge to inquire whether DV is alleged to have occurred immediately prior to or in conjunction with the crime charged. If such abuse has occurred, the district attorney must file a preliminary written statement concerning the abuse, and the judge must make preliminary written findings of fact regarding the abuse. These written findings of fact cannot be considered for the purposes of the crime charged, are not included on a CORI, and are not public record, but must be included in the statewide DV record keeping system, which judges consult during restraining order hearings. If the defendant is found not guilty, the court shall remove the preliminary written statement from the DV record keeping system.

**SECTIONS 31-32.** Amends c. 276 §§ 57 and 58 to require, for any DV offense, a 6 hour delay to admit a person to bail unless bail is ordered by a judge in open court. Prior to admitting a person to bail, or release, the court must have immediate access to all an array of information related to the offender’s history and an array of other factors. Requires information on batterer’s intervention programs be given to anyone charged, prior to admitting them to bail. Requires district attorney to make all reasonable attempts to notify victim of the defendant’s release.

**SECTIONS 33-38.** Amend the dangerousness hearing statute (G.L. c. 276 § 58A) to: (1) allow for detention up to 120 days; (2) require a defendant to make a good faith showing in order to summons an alleged victim or a member of the victim’s family as a witness at the dangerousness hearing; (3) direct judges to consider hearsay evidence, including police reports, at a dangerousness hearing; (4) allow a hearing to be reopened by a judge before trial if information arises that was not known at time of hearing or there has been a change of circumstances that have a material bearing on the issue of safety of another person or the community; and (5) require judges to issue written victim safety determinations in all cases involving DV offenses.

**SECTION 39.** Allows for 90-day bail revocation and detention upon the violation of a condition of release under G.L. c. 276 § 42A (concerning crimes against the person, including DV) or § 87 (pre-trial probation).

**SECTION 40.** Requires the court administrator, in consultation with EOPPS, to adopt rules and regulations to standardize the BOP/CORI information to ensure that judges, DAs and defense counsel are receiving complete and uniform information regarding a defendant. BOP information shall include, at a minimum, information concerning: (i) prior dangerousness hearings (regardless of whether a finding of dangerousness was made), including any written findings of fact and conditions of release; (ii) all temporary or permanent restraining orders, including affidavits made in support thereof; (iii) violations of any temporary or permanent restraining orders; (iv) misdemeanors or felonies involving DV; (v) probation records; and (vi) any information maintained in accordance with the statewide DV record keeping system.

**SECTION 41.** Requires the chief administrator of the trial court, in conjunction with Probation, MOVA, State Police, Jane Doe Inc., and local community-based S/DV programs, to develop and implement, subject to appropriation, a program for disseminating information on S/DV services to victims, defendants, and parties subject to various protective orders.

**SECTION 42.** Requires the Dept. of Elementary and Secondary Education , subject to appropriation, to develop and produce educational materials on DV, TDV and healthy relationships for students grade 9-12, to be used as part of the required health curriculum on safe and healthy relationships required by section 1, chapter 71 of MGL.

**SECTION 43.** Requires DPH to ensure that funds credited to the DVPVAF be expended, provided through line item 4513-1130.

**SECTION 47.**<sup>2/</sup> Establishes a special commission to examine housing and shelter options for victims of S/DV, examining existing options, innovating options (including tax incentives to hotel/motels offering free rooms to victims), feasibility of a database of available housing options, the variation of experiences of victims of increase vulnerability, and best practices from other states. The commission shall consist of: MOVA (chair), EOPSS, DHCD, DPH, DCF, DTA,

---

<sup>2/</sup> The law, as enacted, does not include Sections 44, 45 or 46.

DOR, 2 members of the Senate, 2 members of the House, MDAA, MA Lodging Association, 3 members of victim advocacy groups, appointed by the governor. Report, findings and recommendations to be filed by June 30, 2015.

**SECTION 48.** Requires EOPSS to adopt rules and regulations to ensure that records of dangerousness hearings are not included in CORI information accessible by persons other than criminal justice personnel, unless the underlying charge results in a felony or misdemeanor conviction.

**SECTION 49.** Requires EOPSS, with district attorneys, to file with the legislature, by no later than June 30, 2015, a report including information and statistics related to DV crimes and arrests, prosecutions of DV offenses, including dangerousness hearings, to examine the effectiveness of DV laws.