

SENATE No. 1611

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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 to relative to sexual assault and stalking restraining orders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Harriette L. Chandler	First Worcester
John A. Hart, Jr.	First Suffolk
James B. Eldridge	Middlesex and Worcester
Frank I. Smizik	15th Norfolk
Alice K. Wolf	25th Middlesex
John W. Scibak	2nd Hampshire
Timothy J. Toomey, Jr.	26th Middlesex
Scott P. Brown	Norfolk, Bristol and Middlesex
Mary E. Grant	6th Essex
Susan C. Tucker	Second Essex and Middlesex
Martha M. Walz	8th Suffolk
Cory Atkins	14th Middlesex
Kay Khan	11th Middlesex
Karen E. Spilka	Second Middlesex and Norfolk
Ellen Story	3rd Hampshire
Christopher N. Speranzo	3rd Berkshire
Kathi-Anne Reinstein	16th Suffolk
Susan C. Fargo	Third Middlesex
Vincent A. Pedone	15th Worcester

Mark C. Montigny	Second Bristol and Plymouth
Jay R. Kaufman	15th Middlesex
Peter J. Koutoujian	10th Middlesex
Brian A. Joyce	Norfolk, Bristol and Plymouth

10 “Harassment”, the occurrence of one or more of the following: (a) willfully and
11 maliciously engaging in conduct or acts directed at a specific person, which seriously alarms that
12 person and would cause a reasonable person to suffer emotional distress; or (b) causing another
13 to engage involuntarily in sexual conduct; or (c) causing another to engage involuntarily in
14 sexual conduct by force, threat, or duress, included but not limited to, incapacitation through
15 chemical restraint, drugs or intoxication; or (d) engaging in the enticement of a child under the
16 age of 16 under the provisions of chapter 265 section 26C of the Massachusetts General Laws.

17 “Harassment Prevention Orders”, an order or emergency order granted under this chapter.

18 “Involuntarily”, a lack of freely given consent.

19 “Law officer”, any officer authorized to serve criminal process.

20 “Petitioner”, any named petitioner for a Harassment Prevention Order or any named
21 victim of harassment on whose behalf the petition is brought.

22 “Protection order issued by another jurisdiction”, any injunction or other order issued by
23 a court of another state, territory, or possession of the United States, the commonwealth of
24 Puerto Rico, or the District of Columbia, or tribal court that is issued for the purpose of
25 preventing violent or threatening acts or harassment against, or contact or communications with,
26 or physical proximity to a victim of harassment, including temporary and final orders issued by
27 civil and criminal courts filed by or on behalf of a person seeking protection.

28 “Sexual Conduct” any intentional or knowing touching or fondling, either directly or
29 through clothing, of the sex organs, anus or breast, or any part of the body, or any transfer or
30 transmission of semen upon any part of the clothed or unclothed body, for the purpose of sexual

31 gratification or arousal; OR any contact, however slight, between the sex organ or anus of one
32 person by an object, the sex organ, mouth or anus of another person, or any intrusion, however
33 slight, of any part of the body of one person or object into the sex organ or anus of another,
34 including but not limited to cunnilingus, fellatio or anal penetrations. Evidence of emission of
35 semen is not required to prove sexual conduct.

36 "Victim", any person who suffers harassment, without the need of a report of the offense
37 to the police or the issuance of a complaint or indictment.

38 Section 2. Venue.

39 Proceedings under this chapter shall be filed, heard and determined in the Superior, District,
40 Boston Municipal or Juvenile (if the petitioner or respondent is a juvenile) court departments of
41 the trial court having venue over where: (1) the petitioner resides; (2) the respondent resides;
42 or (3) the alleged harassment occurred.

43 Section 3. Persons Protected By This Act.

44 A petition for a Harassment Prevention Order may be filed:

- 45 (1) by any person who is a victim of harassment; or
- 46 (2) by a person on behalf of a minor child or an adult who is a victim of harassment
47 but, because of age, disability, and health cannot file the petition.

48 Section 4. Remedies; Period of Relief.

49 (a) A petitioner may file a petition requesting protection including, but not limited to, the
50 following orders:

51 (1) ordering the respondent to refrain from attempting to cause or causing
52 physical harm or harassment of the petitioner, whether the petitioner is an adult or
53 minor;

54 (2) ordering the respondent to refrain from contacting the petitioner, either
55 directly or indirectly, unless authorized by the court, whether the petitioner is an
56 adult or minor;

57 (3) ordering the respondent to stay away from the petitioner, the petitioner's
58 household, multiple family dwelling and workplace; or

59 (4) ordering the respondent to pay the petitioner monetary compensation for the
60 losses suffered as a direct result of such harassment. Compensatory loss shall
61 include, but not be limited to, loss of earnings, out-of-pocket losses for injuries
62 sustained, replacement costs for locks or personal property removed or destroyed,
63 medical costs, moving expenses, cost for obtaining an unlisted telephone number
64 and reasonable attorney's fees.

65 (b) Any relief granted by the court shall be for a fixed period of time not to exceed 1
66 year. Every order shall on its face state the time and date the order is to expire. If the
67 petitioner appears at the court on or before the close of business on the date the order is to
68 expire, the court shall determine whether or not to enter a permanent order, or to extend
69 the order for another period of time reasonably necessary to prevent future harassment or

70 intimidation of the petitioner by the respondent, or contact between the petitioner and the
71 respondent. When the expiration date stated on the order is on a weekend day or holiday,
72 or a date when the court is closed to business, the order shall not expire until the close of
73 business on the next date that the court is open to business. The petitioner may appear on
74 such next court business day to request that the order be extended. At a hearing to extend
75 the order for such additional time, the court shall consider the totality of the
76 circumstances. The fact that harassment or contact between the parties has not occurred
77 during the pendency of an order shall not, in itself, constitute sufficient ground for
78 denying or failing to extend the order, or allowing an order to expire or be vacated, or for
79 refusing to issue a new order.

80 (c) The court may modify its order at any subsequent time upon motion by
81 either party. When the petitioner's address is inaccessible to the respondent, as provided
82 in section 8, and the respondent has filed a motion to modify the court's order, the court
83 shall be responsible for notifying the petitioner. In no event shall the court disclose any
84 such confidential address.

85 (d) A court shall not deny any petition filed under this chapter solely because it was not
86 filed within a particular time period after the last alleged incident of harassment.

87 Section 5. Commencement of action; filing fees.

88 (a) An action for a Harassment Prevention Order is commenced:

89 (1) independently, by filing a Harassment Prevention Order petition in any
90 court, and shall not be contingent upon reporting the alleged harassment to a law
91 enforcement agency nor shall it be contingent upon prosecuting such case
92 criminally; or

93 (2) in conjunction with a delinquency petition or a criminal prosecution
94 for the same act, by filing a petition for a Harassment Prevention Order under the
95 same case number as the delinquency petition or criminal prosecution and treated
96 as a civil and separate matter, to be granted during pre-trial release of a
97 respondent, with any dispositional order issued under section 58 of chapter 119,
98 or as a condition of release, supervision, conditional discharge, probation,
99 periodic imprisonment, parole, or mandatory supervised release, or in conjunction
100 with imprisonment or a bond forfeiture warrant, provided that (i) the violation is
101 alleged in an information, petition, indictment, or delinquency petition on file and
102 the alleged victim is a person that may be afforded protection under this chapter,
103 and (ii) the petition, which is filed by the district attorney, names a victim of the
104 alleged crime as a petitioner.

105 (b) Withdrawal or dismissal of any petition for a Harassment Prevention Order prior to
106 adjudication shall operate as a dismissal without prejudice.

107 (c) Any action commenced under the provisions of this chapter shall not preclude any
108 other civil or criminal remedies. Dismissal of the delinquency petition or criminal

109 prosecution for the same act, or a finding of not guilty, shall not require dismissal of the
110 action for a Harassment Prevention Order.

111 (d) No filing fee shall be charged by the clerk of the court for the filing of the petition.
112 Neither the petitioner nor the petitioner's attorney shall be charged for certified copies of
113 any orders entered by the court, or any copies of the file reasonably required for future
114 court action or as a result of the loss or destruction of petitioner's copies.

115 Section 6. Form of complaint; promulgation.

116 The chief justices for Administration and Management, in consultation with the chief
117 justices of the Superior, District, Boston Municipal or Juvenile court departments shall
118 promulgate a form of petition for use under this chapter which shall be in such form and
119 language to permit a petitioner to prepare and file such petition pro se.

120 Section 7. Pleading; confidentiality of records.

121 (a) A petition for a Harassment Prevention Order shall be in writing and verified or
122 accompanied by affidavit and shall allege that the petitioner has been the victim of
123 harassment and there exists a substantial likelihood of immediate danger of harassment.

124 (b) The records of cases arising out of an action brought under this chapter where the
125 petitioner or respondent is a minor shall be withheld from public inspection except by
126 order of the court; provided, that such records shall be open, at all reasonable times, to
127 the inspection of the minor, said minor's parent, guardian, attorney, and to the petitioner
128 and the petitioner's attorney, or any of them.

129 (c) The petitioner's cellular telephone number, residential address, residential telephone
130 number and workplace name, address and telephone number, contained within the court
131 records of cases arising out of an action brought by a petitioner under this chapter, shall
132 be confidential and withheld from public inspection at all times, except by order of the
133 court and pursuant to the provisions of chapter 265 section 24C of the general laws. All
134 confidential portions of the records shall be accessible at all reasonable times to the
135 petitioner and petitioner's attorney, to others specifically authorized by the petitioner to
136 obtain such information, and to prosecutors, victim-witness advocates as defined in
137 section 1 of chapter 258B, sexual assault counselors as defined in section 20J of chapter
138 233, and law enforcement officers, if such access is necessary in the performance of their
139 duties. This paragraph shall apply to any protection order issued by another jurisdiction
140 that is filed with a court of the commonwealth pursuant to section 14. Such confidential
141 portions of the court records shall not be deemed to be public records under Clause
142 Twenty-sixth of section 7 of chapter 4.

143 (d) Upon the filing of a petition under this chapter, the court may enter such temporary
144 orders as it deems necessary to protect a petitioner from further contact by the
145 respondent. Such relief shall not be contingent upon reporting the alleged harassment to
146 a law enforcement agency nor shall it be contingent upon prosecuting such case
147 criminally nor may the court consider such factors in rendering its decision.

148 (e) In any proceeding to obtain a Harassment Prevention Order, a petitioner must
149 establish by a preponderance of the evidence that he/she is a victim of harassment and
150 that there is a substantial likelihood of immediate danger of harassment.

151 (f) If the court finds reasonable grounds to believe that the petitioner is the victim of
152 harassment and there is a substantial likelihood of immediate danger of harassment, the
153 court may enter such temporary relief orders without notice as it deems necessary to
154 protect the petitioner from harassment and shall immediately thereafter notify the
155 respondent that the temporary orders have been issued. The court shall give the
156 respondent an opportunity to be heard on the question of continuing the temporary order
157 and of granting other relief as requested by the petitioner no later than 10 court business
158 days after such orders are entered. It is recommended that all such hearings be conducted
159 at sidebar.

160 Notice shall be made by the appropriate law enforcement agency as provided in
161 section 9.

162 If the respondent does not appear at such subsequent hearing, the temporary orders shall
163 continue in effect without further order of the court.

164 Section 8. Hearing.

165 When a petitioner seeks relief under sections 3, 4, 7, or 10, it is recommended that any
166 such hearing be heard at sidebar in order to protect the petitioner's privacy. The rules of
167 evidence do not apply. If the petitioner is a minor, or the application is filed on behalf of a
168 minor, it is recommended that the hearing be closed to the public as in juvenile proceedings.

169 Section 9. Harassment Prevention Order; record search; service of order; enforcement;
170 violations.

171 An order under this statute shall also be filed in the Statewide Domestic Violence Record
172 Keeping System. When considering a petition filed under this chapter, a judge shall cause a
173 search to be made of the records contained within the Statewide Domestic Violence Record
174 Keeping System maintained by the office of the commissioner of probation and shall review the
175 resulting data to determine whether the named respondent has a civil or criminal record
176 involving domestic or other violence. Upon receipt of information that an outstanding warrant
177 exists against the named respondent, a judge shall order that the appropriate law enforcement
178 officials be notified and shall order that any information regarding the respondent's most recent
179 whereabouts shall be forwarded to such officials. In all instances where an outstanding warrant
180 exists, a judge shall make a finding, based upon all of the circumstances, as to whether a
181 substantial likelihood of immediate danger of harassment to the petitioner exists. In all instances
182 where a substantial likelihood of immediate danger of harassment is found to exist, the judge
183 shall notify the appropriate law enforcement officials of such finding and such officials shall take
184 all necessary actions to execute any such outstanding warrant as soon as is practicable.

185 Whenever the court orders under this chapter that an order from this jurisdiction and /or
186 another jurisdiction become effective in the Commonwealth and that the respondent refrain from
187 harassing the petitioner or have no contact with the petitioner, the clerk-magistrate shall transmit
188 2 certified copies of each such order and 1 copy of the petition and summons forthwith to the
189 appropriate law enforcement agency which, unless otherwise ordered by the court, shall serve 1
190 copy of each order upon the respondent, together with a copy of the petition, order and summons
191 and notice of any suspension or surrender ordered pursuant to section 12. The law enforcement
192 agency shall promptly make its return of service to the court.

193 Law enforcement officers shall use every reasonable means to enforce such Harassment
194 Prevention Orders. Law enforcement agencies shall establish procedures adequate to insure that
195 an officer on the scene of an alleged violation of such order may be informed of the existence
196 and terms of such order. The court shall notify the appropriate law enforcement agency in
197 writing whenever any such order is vacated and shall direct the agency to destroy all record of
198 such vacated order and such agency shall comply with that directive.

199 Each Harassment Prevention Order issued shall contain the following statement:

200 **VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

201 Any violation of such order or a protection order issued by another jurisdiction shall be
202 punishable by a fine of not more than \$5,000, or by imprisonment for not more than 2 ½ years in
203 a house of correction, or by both such fine and imprisonment. In addition to, but not in lieu of,
204 the forgoing penalties and any other sentence, fee or assessment, including the victim witness
205 assessment as provided in section 8 of chapter 258B, the court shall order persons convicted of
206 violating a provision of this chapter an additional assessment of \$25 that shall be transmitted to
207 the treasurer for deposit into the General Fund.

208 In each instance of a violation of a Harassment Prevention Order or a protection order
209 issued by another jurisdiction, the court may order the respondent to pay the petitioner for all
210 damages including, but not limited to, loss of earnings, out-of-pocket losses for injuries
211 sustained, replacement costs for locks or personal property removed or destroyed, medical costs,
212 moving expenses, cost for obtaining an unlisted telephone number, and reasonable attorney's
213 fees.

214 Any such violation may be enforced in the superior, district, Boston municipal or juvenile
215 (if the petitioner or respondent are juveniles) court departments. Criminal remedies provided
216 herein are not exclusive and do not preclude any other available civil or criminal remedies. The
217 superior, district, Boston municipal or juvenile court departments may each enforce by civil
218 contempt procedure a violation of its own court order.

219 The provisions of section eight of chapter one hundred and thirty six shall not apply to
220 any order, complaint or summons issued pursuant to this section.

221 Section 10. Granting of relief when court is closed; certification.

222 When the court is closed for business or the petitioner is unable to appear in court
223 because of severe hardship due to the petitioner's physical condition, any justice of the Superior,
224 District, Boston Municipal, or Juvenile (if the petitioner or respondent are juveniles) court
225 departments may grant relief to the petitioner as provided under section 8 if the petitioner has
226 been a victim of harassment and demonstrates a substantial likelihood of immediate danger of
227 harassment. In the discretion of the justice, such relief may be granted and communicated by
228 telephone to an officer or employee of an appropriate law enforcement agency, who shall record
229 such order on a form of order promulgated for such use by the Chief Justice for Administration
230 and Management and shall deliver a copy of such order on the next court day to the clerk-
231 magistrate of the court having venue and jurisdiction over the matter. If relief has been granted
232 without the filing of a petition pursuant to this section, the petitioner shall appear in court on the
233 next available business day to file said petition. If the petitioner in such a case is unable to appear
234 in court without severe hardship due to the petitioner's physical condition, then a representative
235 may appear in court on the petitioner's behalf and file the requisite petition with an affidavit

236 setting forth the circumstances preventing the petitioner from appearing personally. Notice to the
237 petitioner and respondent and an opportunity for the respondent to be heard shall be given as
238 provided in section 7.

239 Any order issued under this section and any documentation in support thereof shall be
240 certified on the next court day by the clerk-magistrate of the court issuing such order to the court
241 having venue and jurisdiction over the matter. Such certification to the court shall have the effect
242 of commencing proceedings under this chapter and invoking other provisions of this chapter but
243 shall not be deemed necessary for an emergency order issued under this section to take effect.

244 Section 11. Order for suspension and surrender of firearms license; surrender of firearms;
245 petition for review; hearing.

246 Upon issuance of a temporary or emergency order under sections 7 or 10, the court shall,
247 if the petitioner demonstrates a substantial likelihood of immediate danger of harassment, order
248 the immediate suspension and surrender of any license to carry firearms and or firearms
249 identification card which the respondent may hold and order the respondent to surrender all
250 firearms, rifles, shotguns, machine guns and ammunition which the respondent then controls,
251 owns or possesses in accordance with the provisions of this chapter and any license to carry
252 firearms or firearms identification cards which the respondent may hold shall be surrendered to
253 the appropriate law enforcement officials in accordance with the provisions of this chapter and,
254 said law enforcement official may store, transfer or otherwise dispose of any such weapon in
255 accordance with section 129D of chapter 140; provided however, that nothing herein shall
256 authorize the transfer of any weapons surrendered by the respondent to anyone other than a
257 licensed dealer. Notice of such suspension and ordered surrender shall be appended to the copy

258 of Harassment Prevention Order served on the respondent pursuant to section 7. Law
259 enforcement officials, upon the service of said orders, shall immediately take possession of all
260 firearms, rifles, shotguns, machine guns, ammunition, any license to carry firearms and any
261 firearms identification cards in the control, ownership, or possession of said respondent. Any
262 violation of such orders shall be punishable by a fine of not more than \$5,000, or by
263 imprisonment for not more than 2 1/2 years in a house of correction, or by both such fine and
264 imprisonment.

265 Any respondent aggrieved by an order of surrender or suspension as described in the first
266 sentence of this section may petition the court which issued such suspension or surrender order
267 for a review of such action and such petition shall be heard no later than 10 court business days
268 after the receipt of the notice of the petition by the court. If said license to carry firearms or
269 firearms identification card has been suspended upon the issuance of an order issued pursuant to
270 sections 7 or 10, said petition may be heard contemporaneously with the hearing specified in
271 section 7. Upon the filing of an affidavit by the respondent that a firearm, rifle, shotgun,
272 machine gun or ammunition is required in the performance of the respondent's employment, and
273 upon a request for an expedited hearing, the court shall order said hearing within 2 business days
274 of receipt of such affidavit and request but only on the issue of surrender and suspension
275 pursuant to this section.

276 Section 12. Continuation or modification of order for surrender or suspension.

277 Upon the continuation or modification of an order issued pursuant to section 8, or upon
278 petition for review as described in section 11, the court shall also order or continue to order the
279 immediate suspension and surrender of a respondent's license to carry firearms, including a Class

280 A or Class B license, and firearms identification card and the surrender of all firearms, rifles,
281 shotguns, machine guns or ammunition which such respondent then controls, owns or possesses
282 if the court makes a determination that the return of such license to carry firearms, including a
283 Class A or Class B license, and firearm identification card or firearms, rifles, shotguns, machine
284 guns or ammunition presents a likelihood of harassment to the petitioner. A suspension and
285 surrender order issued pursuant to this section shall continue so long as the protection order to
286 which it relates is in effect; and, any law enforcement official to whom such weapon is
287 surrendered may store, transfer or otherwise dispose of any such weapon in accordance with
288 section 129D of chapter 140; provided, however, that nothing herein shall authorize the transfer
289 of any weapons surrendered by the respondent to anyone other than a licensed dealer. Any
290 violation of such order shall be punishable by a fine of not more than \$5,000 or by imprisonment
291 for not more than 2 ½ years in a house of correction or by both such fine and imprisonment.

292 Section 13. Protection order issued by another jurisdiction; enforcement; filing;
293 presumption of validity.

294 Any protection order issued by another jurisdiction shall be given full faith and credit
295 throughout the commonwealth and enforced as if it were issued in the commonwealth for as long
296 as the order is in effect in the issuing jurisdiction.

297 A person entitled to protection under a protection order issued by another jurisdiction
298 may file such order in the Superior, District, Boston Municipal, or Juvenile (if the petitioner or
299 respondent are juveniles) court departments by filing with the court a certified copy of such order
300 which shall be entered into the Statewide Domestic Violence Record Keeping System pursuant
301 to section 10. Such person shall swear under oath in an affidavit, to the best of such person's

302 knowledge that such order is presently in effect as written. Upon request by a law enforcement
303 agency, the clerk of such court shall provide a certified copy of the protection order issued by the
304 other jurisdiction.

305 A law enforcement officer may presume the validity of, and enforce in accordance with
306 section 9, a copy of a protection order issued by another jurisdiction which has been provided to
307 the law enforcement officer by any source; provided, however, that the officer is also provided
308 with a statement by the person protected by the order that such order remains in effect. Law
309 enforcement officers may rely on such statement by the person protected by such order and
310 cannot be subjected to civil or criminal liability so long as they have acted in good faith reliance
311 upon the representations.

312 Section 14. Powers of police.

313 Whenever any law officer has reason to believe that an individual has been harassed or is
314 in danger of being harassed, such officer shall use all reasonable means to prevent further
315 harassment. The officer shall take, but not be limited to the following action:

316 (1) remain on the scene of where said harassment occurred or was in danger of occurring
317 as long as the officer has reason to believe that at least one of the parties involved would
318 be in immediate physical danger without the presence of a law officer. This shall include,
319 but not be limited to remaining in the dwelling for a reasonable period of time;

320 (2) assist the victim in obtaining medical treatment necessitated by the harassment, which
321 may include driving the victim to the emergency room of the nearest hospital, or
322 arranging for appropriate transportation to a health care facility, notwithstanding any law

323 to the contrary. If possible, the officer shall take the victim of a sexual assault to a
324 location where a sexual assault nurse examiner is present. The officer shall consider the
325 victim's preference in this regard and what is reasonable under all the circumstances;

326 (3) assist the victim in locating and getting to a safe place including, but not limited to, a
327 designated meeting place for a shelter or a family member or friend's residence;

328 (4) give such person immediate and adequate notice of his or her rights. Such notice shall
329 consist of handing said person a copy of the statement that follows below and reading the
330 same to said person. If said person's native language is not English, the statement shall be
331 then provided in said person's native language whenever possible.

332 "You have the right to appear at the Superior, District, Boston Municipal, or Juvenile (if
333 the petitioner or respondent is a juvenile) court, if you reside within the appropriate
334 jurisdiction, and file a petition requesting any of the following applicable orders: (a) an
335 order directing your attacker to refrain from contacting you, an order directing your
336 attacker to stay away from you, your dwelling and your workplace; and (b) an order
337 directing your attacker to pay you for losses suffered as a result of the harassment
338 including, but not limited to, loss of earnings, out-of-pocket losses for injuries sustained,
339 replacement costs for locks or personal property removed or destroyed, medical
340 costs, moving expenses, cost for obtaining an unlisted telephone number and reasonable
341 attorney's fees.

342 Initiation of a petition under this statute is not contingent upon going forward with a
343 criminal proceeding nor is it contingent upon ongoing cooperation with law enforcement.

344 For an emergency on weekends, holidays, or weeknights the police will refer you to a
345 justice of the Superior, District, Boston Municipal, or Juvenile (if the petitioner or
346 respondent is a juvenile) court departments.

347 You have the right to go to the appropriate Superior, District, Boston Municipal, or
348 Juvenile (if the petitioner or respondent is a juvenile) court and seek a criminal complaint
349 for related offenses.

350 If you are in need of medical treatment, you have the right to request that an officer
351 present drive you to the nearest hospital or otherwise assist you in obtaining medical
352 treatment. If you are the victim of sexual assault and if possible, the officer shall take you
353 to a location where a sexual assault nurse examiners is present. The officer shall consider
354 your preference in this regard and what is reasonable under all the circumstances.

355 If you believe that police protection is needed for your physical safety, you have the right
356 to request that the officer present remain at the scene until you can leave or until your
357 safety is otherwise ensured. You may also request that the officer assist you in locating
358 and taking you to a safe place, including but not limited to a designated meeting place for
359 a shelter or a family member's or a friend's residence, or a similar place of safety.

360 You may request a copy of the police incident report at no cost from the police
361 department."

362 The officer shall leave a copy of the foregoing statement with such person before
363 leaving the scene or premises.

364 (5) assist such person by activating the emergency judicial system when the court is
365 closed for business;

366 (6) inform the victim that the assailant will be eligible for bail and may be promptly
367 released; and

368 (7) arrest any person a law officer witnesses or has probable cause to believe has violated
369 a temporary or permanent Harassment Prevention Order or judgment issued. When there
370 are no Harassment Prevention Orders or judgments in effect, arrest shall be the preferred
371 response whenever an officer witnesses or has probable cause to believe that a person:

372 (a) has committed a felony; or

373 (b) has committed a misdemeanor involving harassment as defined in section one
374 of this chapter

375 (c) has committed an assault and battery that involved harassment

376 The safety of the victim shall be paramount in any decision to arrest. Any officer arresting both
377 parties must submit a detailed, written report in addition to an incident report, setting forth the
378 grounds for dual arrest.

379 No law officer investigating an incident of harassment shall threaten, suggest, or otherwise
380 indicate the arrest of all parties for the purpose of discouraging requests for law enforcement
381 intervention by any party.

382 No law officer shall be held liable in any civil action regarding personal injury or injury to
383 property brought by any party to a harassment incident for an arrest based on probable cause
384 when such officer acted reasonably and in good faith and in compliance with this chapter.

385 Whenever any law officer investigates an incident of harassment, the officer shall immediately
386 file a written incident report in accordance with the standards of the officer's law enforcement
387 agency and, wherever possible, in the form of the National Incident-Based Reporting System, as
388 defined by the Federal Bureau of Investigation. The latter information may be submitted
389 voluntarily by the local police on a monthly basis to the crime-reporting unit of the criminal
390 history systems board.

391 The petitioner shall be provided a copy of the full incident report at no cost upon request to the
392 appropriate law enforcement department.

393 When a judge or other person authorized to take bail grants bail for any person arrested under
394 this chapter, he shall make reasonable efforts to inform the petitioner of such release prior to or
395 at the time of said release.

396 When any person charged with or arrested for a crime involving harassment under this chapter is
397 released from custody, the court or the emergency response judge shall issue, upon the request of
398 the petitioner, a written no contact order prohibiting the person charged or arrested from having
399 any contact with the petitioner, either directly or indirectly, and shall use all reasonable means to
400 notify the petitioner immediately of release from custody. The petitioner shall be given at no cost
401 a certified copy of the no contact order.