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Legal Rights: Dating Violence

The following questions are answered in this document:

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This section is about dating violence and the kinds of protection you can get under a special law called the Abuse Prevention Act. Although our focus is on dating violence, you should be aware that the Abuse Prevention Act also covers other kinds of abusive relationships.

If you are being abused, and want to speak with someone about your situation, you can call the Statewide Domestic Violence Hotline at 1.877.785.2020. The Hotline provides free confidential and multilingual assistance to victims of domestic violence twenty-four hours a day.

(Note: For additional information on obtaining protection from abuse, you may want to consult the following two websites: www.neighborhoodlaw.org and www.gbls.org.)

The hotline counselor can refer you to a shelter, provide you with important information about support services, and help you to develop a safety plan. (Note: Even if you get an order under the Abuse Prevention Act, safety planning is still very important.)

She can also give you basic advice about getting a protective order, and can refer you to a lawyer or advocate who may be able to help you.

Also, in some situations getting an order may not be the best approach to keeping safe. If you are worried about how the person who is abusing you might respond to your going to court, you can talk this over with the hotline counselor. She can help you to figure out what is best for you.

Also, always keep in mind that if you are in danger, or have been hurt, you can call 911 for police assistance. The police are legally obligated to protect you. Most police departments now have domestic violence units which are staffed by police officers with special training in responding to domestic violence calls.

1. If my dating partner is abusing me, can I get protection from the court?

Yes. Someone who is or has been in a "substantial dating relationship" can go to court and seek a "protective order" under the Abuse Prevention Act. (These orders are also referred to as "209A orders" or "restraining orders.")

You may also be able to file criminal charges against your dating partner. To learn more about filing criminal charges, you can call your local district court. You can also call your local district court. You can also call the Statewide Domestic Violence Hotline. That number is 1.877.785.2020.

2. What is a "substantial dating relationship?"

Under the Abuse Prevention Act, the judge has the authority to decide if a dating relationship is (or was) substantial. To make this decision, the judge looks at the following:

- the length of time of the relationship
- the type of the relationship
- the amount of contact between you.

Remember, the Abuse Prevention Act does not only apply to dating relationships. For example, you can get a protective order against the father of your child even if you were never in a substantial dating relationship with him. You can call the Hotline if you have any questions about what other kinds of relationships are covered.

3. Could a judge decide my relationship is not "substantial" enough and refuse to give me a protective order?

Unfortunately, this is a possibility. This is one of the reasons why it is very important to have an advocate help you.

An advocate can talk to you about whether your relationship is likely to be considered "substantial" by the judge. She can also help you figure out how best to describe your relationship to the judge (regarding advocates, see question 9)

4. What if I am in a same-sex dating relationship? Can I get a protective order?

Yes- the Abuse Prevention Act does not distinguish between same-sex and heterosexual dating relationships.

5. What kind of abuse can I get protection from?

You can seek protection if your dating partner has: tried to physically hurt you or actually caused you physical harm, OR threatened to hurt you, OR made you have sex against your will through force, the threat or force or duress (a lot of pressure).

6. Which courts issue protective orders?

Most protective orders are issued by either a district court (in Boston, known as the municipal court) or a probate and family court.

For help in figuring out which court to go to, you can call your local police or the Statewide Domestic Violence Hotline (1.877.785.2020). You can also call the district court or the probate and family court in your community.

If you have a child, you should mention that, as it might influence the decision about which court you go to (see question 14).

7. What if I need a protective order and the courts are closed?

First, remember that anytime you are in danger or have been hurt, you can call 911 for police assistance.

Second, if you need an emergency order when the courts are closed, the local police must help put you in touch with the on-call 24-hour emergency judge. The emergency judge can issue you an order over the telephone. This order is only good until the next working day. You must go to court on the next working day in order to get a new order.

8. Does it cost anything to get a protective order?

No. You do not have to pay anything to get an order.

9. If there anyone who can help me to get an order?

Yes. You can call the Statewide Domestic Violence Hotline at 1.877.785.2020. The Hotline can refer you to an advocate or lawyer who may be available to give you advice and/or accompany you to court.

If you go to a district court, an advocate from the District Attorney's Victim/Witness Office is usually available to help people get orders. Most district courts also have a clerk who is specially trained to help people seeking protective orders with the necessary paperwork. Additionally, in some district courts, an advocate from a local battered women's shelter may be available to assist you.

If you go to probate and family court, there is also usually a court clerk who is specially trained to help people seeking protective orders with the paperwork. A domestic violence advocate or lawyer may also be available in the court who can help you with the order, but this varies from court to court.

You may be able to find a lawyer or an advocate from a legal services program who can go to court with you.

Note: If custody of a child is involved, it can be very important to have a lawyer or advocate accompany you to court (see question 14).

10. If I involve an adult, will they keep what I tell them confident?

Unfortunately, there is no clear answer to this question. In many situations, your confidentiality will be kept, but—depending on who you talk to and your circumstances—the adult you involve may decide that they must disclose your situation to some agency, such as the Department of Social Services (the state agency responsible for the protection of children) and/or persons such as your parents.

If confidentiality is important to you, then, before you talk to any adult, you should ask what his/her policy is regarding confidentiality.

11. Do I need to put my address on the court forms?

No. Your address can be kept secret in order to protect your safety. This is referred to as "impounding."

If you want your address impounded, there are special steps you have to take when filling out the court paper work. Make sure to tell whoever is helping you with the paperwork that you want your address impounded, so they can make sure the necessary steps are taken.

12. Do my parents have to come to court with me?

Although the Abuse Prevention Act does not specifically require that a parent or other responsible adult be in court with you, some judges do not like to issue protective orders to minors who come to court without a parent. If a parent or responsible adult is not with you, the judge might appoint a professional to help you. This person is known as a "guardian ad litem."

If you do not go to court without a parent, the judge is likely to ask you a lot of questions about

why a parent is not with you. If the judge, or someone else in the court, is concerned about your safety, s/he might decide s/he needs to bring your situation to someone's attention.

If you are planning to go to court without a parent, it is very important that you have an advocate with you. The advocate might respond to your situation; she can also help you explain your situation to the court (regarding advocates, see question 9).

13. What steps are involved in getting a protective order?

The following outline will give you a basic idea of the process.

Remember, you do not need to do this alone. An advocate can go over the steps with you and give you more detailed information so you have a clear picture of what getting an order involves. The first step is to go to court and fill out the necessary court forms (see question 7 regarding after-hours orders.)

1. The next step is to appear before the judge, and explain why you need protection.
2. In most cases, after hearing your story, the judge will give you a temporary protective order which is good up to 10 court business days. You should keep this order with you at all times.
3. The judge will then schedule a second hearing no later than 10 court business days after this temporary order is issued.
4. The police will serve your dating partner with a copy of the temporary order. The order will tell your dating partner the day and time of the second hearing. Once the order has been served, it is a crime for your dating partner to violate the order by doing any of the things it prohibits.
5. You must return to court for the second hearing; if you do not, your protective order will expire. This second hearing is often referred to as "the 10-day hearing." If an emergency makes it impossible for you to attend the hearing, you should call your advocate or the clerk at the court and explain the circumstances. S/he can figure out what to do.

At this hearing, both you and your dating partner will have the chance to tell your side of the story. The judge will then decide whether or not to continue the protective order. It can be continued for up to one year.

If you are worried about your safety while in court, talk to your advocate and/or someone from the court, such as a court officer, so they can take the steps to protect you while in court. (Note: The court officers have a uniform and a badge.)

You do not have to have any contact with your abuser while you are in court. If s/he approaches you, you can go to a court officer for help.

6. If a protective order is issued at the 10-day hearing, it will have an expiration date on it. The order should also have a date and time on it for when you can return to court and

ask to have this order extended. Before you leave court, make sure you know when the order expires and when you need to return to court for an extension. You will receive another notice from the court about when you must return for the extension.

To get this extension, there do not need to have been any new acts of violence. But you will have to explain to the court why you still need the order- for example, that this protective order is what has kept you from being abused.

If you are thinking about getting an extension, talk to an advocate or court clerk before your order expires so you know exactly what you will need to do to get the extension.

14. What kinds of protection can the court order?

The court can order your dating partner:

- * To stop abusing you
- * To have no contact whatsoever with you or your child (even through another person)
- * To stay a certain distance away from you, your home, your school and your workplace
- * If you live together, to move out of your home
- * To pay child support if you have a child together
- * To pay you for any losses that were caused by the abuse (such as uninsured medical expenses or lost pay if you had to miss work)
- * To surrender all guns or firearms and any license to carry firearms (this must be done at the very first hearing)

The court can also order that your address be "impounded" (kept confidential). Note: If you and your partner have a child, the court can grant you custody. However, custody (and visitation) issues can become very complicated, especially since the district court has limited authority in these matters. For instance, if there is an existing custody/visitation case in probate and family court, the district court judge cannot change these orders. Additionally, a district court judge is not supposed to award visitation to the abuser, but he can then go to probate and family court and ask a judge for custody and/or visitation.

Because this is so complicated, it is especially important to have a lawyer or advocate help you if a child is involved. Be sure to discuss the question with her, as it may be best to seek your order in the probate and family court.

15. What if my dating partner violates the order?

It is a crime to violate a protective order. If the order is violated, you can call the police right away. The police are supposed to arrest a person who had violated an order. Also, the police are required to take steps, such as staying on the scene after the arrest, to be sure you're safe.

Even if you do not call the police, you can file a criminal complaint. A Victim/Witness Advocate at the local district court can help you with this. You can also call the Statewide Domestic Violence Hotline for information about filing criminal charges.