

Restraining Order Process (209A)

- Massachusetts

What is a 209A Abuse Prevention Order?

Commonly called a “Restraining Order” or Protection Order”, the 209A Abuse Prevention Order is a civil order protecting you from physical harm. These orders are civil in nature and do not become criminal unless they are violated. A judge can order your abuser to:

- Stop abusing you, threatening to abuse you, placing you in fear of abuse, or forcing you to engage in sexual relations against your will.
- Have no contact with you.
- Leave and remain away from your home and workplace.
- The court can impound your address if you do not want the abuser or his/her attorney to know where you live/work.
- The court can order your abuser to pay for losses suffered as a direct result of the abuse (i.e. ambulance /hospital bills, the cost of changing the locks in your home, etc.).
- To order your abuser to pay temporary support/child support (you may not obtain this if there is a prior or pending order for support from a Probate and Family Court).
- You can request custody of your children and/or for the abuser not to have any contact with the children.
- Surrender all weapons, license and FID cards.

Who can apply for a Restraining Order?

You can ask the court for 209A protection, if you have been physically injured or are in fear of imminent harm by any of the following people;

- Your spouse or intimate partner
- Parent of your child
- Ex-spouse or partner
- Relative by blood or marriage
- Current or former roommate

If your abuser has been arrested for domestic assault and battery, a stay away order may also be issued during arraignment.

Emergency Restraining Orders

The police can help you get an emergency restraining order after court hours or during the weekend. They will contact the judge on call. **If the order is granted, it will protect you only until 4:00PM the next day that the court is open.** You will need to complete the paperwork again in court.

Temporary Restraining Order (TRO)

If the defendant is not present when you obtain your order, you will receive what is called a Temporary Restraining Order (TRO). This order is usually good for 10 days and allows the court to notify the other party of the pending proceeding allowing them an opportunity to come to court and give their side of the story. Your order will be heard whether or not the other side chooses to come to court as long as they had proper notice of the order.

Restraining Order Process

You must go to the courthouse for your district.

- Go to the clerk's office and tell them you want to get a restraining order.
- Ask if a HAWC advocate is available to assist you. Advocates can help you complete the paperwork and affidavit, and answer questions about the court process.
- When writing the affidavit, describe the most recent incident, any threats to harm you or the children and why you are in fear. You may also include past incidents if there is a history of abuse.
- Return the completed paperwork to the clerk and ask the clerk which courtroom they will send the paperwork to.
- Inform the clerk when returning your paperwork if the defendant is in custody and is present. The court will usually hear the restraining order and the arraignment at the same time. If both parties are present the court may issue the order for up to one year.
- The clerk will type the forms and send them to the courtroom.
- Go to the courtroom and wait for your name to be called.
- The clerk will call your name and you will go before the judge. The HAWC advocate can stand with you if you wish.
- The judge will read the affidavit and may ask you a few questions. In most cases, you will be granted a Temporary Restraining Order for ten days.

Extension of your Restraining Order

Temporary restraining orders are usually issued for 10 days and most other orders are for one year. Sometimes the judge will issue an order for 3 or 6 months. They all will have a return date on page 2 of the order. You must return on this date or your order will expire at 4:00PM.

- Go to the courthouse at 9:00AM and wait for your name to be called.
- Both you and the defendant have the right to be present at this hearing.
- The judge will listen to your reasons for wanting to extend the order, as well as any objections the defendant may raise.

It does not matter if there have been no incidents of abuse or violation during the time the restraining order has been in effect. If you are still in fear, you may ask to have the order extended.

Going to court

If possible, do not bring your children.

Dress in conservative clothing

**IF THE DEFENDANT IS THERE,
AND YOU HAVE CONCERNS ABOUT YOUR SAFETY**

- Tell a court officer and point out the defendant
- Ask if you can wait in the Domestic Violence Unit or if there is a private, safe room available.
- Ask a security officer to escort you to your car or bus stop when you leave.

Read your order

When the judge grants your order, you will receive a copy from the clerk's office. Read it carefully and carry it with you at all times. You are the plaintiff and your abuser is the defendant. The order specifically states the protections now in place, usually by checking off the boxes. Sometimes the judge will also write in special instructions.

Restraining Order Violations

Violation of a restraining order is a criminal offense and is subject to arrest.

Call the police immediately if your order is violated. If you are unsure, ask the police, a HAWC advocate or a victim witness advocate.

Examples of violations are:

- Physical or sexual assault
- Threats
- Following you
- Failure to leave if an accidental face-to-face contact occurs
- Calling you at home or work
- Having a friend or family member call you on behalf of the defendant (third party contact)
- Sending you or the children cards, letters, flowers, gifts (if no contact is ordered, even non-threatening contact is a violation)
- Driving by your home or workplace
- Shutting off your utilities
- Disrupting your phone or mail service

For Additional Help you can contact:

HAWC – Help for Abused Women and their Children
27 Congress Street
Salem, MA 01970
Tel: 978.744.8552
Web: <http://www.helpabusedwomen.org>

24-Hour HOTLINE – 9 7 8 . 7 4 4 . 6 4 8 1

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