

SENATE NO. 1003

AN ACT RELATIVE TO THE AUTHORITY OF THE DISABLED PERSONS PROTECTION COMMISSION TO SEEK RESTRAINING ORDERS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. SECTION 7 OF CHAPTER 19C OF THE GENERAL LAWS, AS APPEARING IN THE 2004
2 OFFICIAL EDITION, IS HEREBY AMENDED AS FOLLOWS: BY ADDING AFTER (D) THE FOLLOWING
3 LANGUAGE:

4 (e) No person shall interfere with the provision of protective services or protective
5 placement provided to a person with a disability who requests, consents or assents to
6 receiving those services or placement. In the event that such interference occurs, the
7 Commission, the Department of Mental Health, the Department of Mental Retardation
8 or the Massachusetts Rehabilitation Commission may petition the court for a
9 temporary restraining order to enjoin such interference.

10 (f) When a court order exists authorizing protective services for a person with a
11 disability who lacks capacity to consent and any person interferes with the provision of
12 such court-ordered protective services, the appropriate law enforcement agency shall
13 enforce the order of the court, including but not limited to, taking the person with a
14 disability into protective custody and transporting said person with a disability to an

15 appropriate medical or protective services facility in order to provide the protective
16 services as ordered by the court. In addition, said law enforcement agency, the
17 Commission, the Department of Mental Health, the Department of Mental Retardation
18 or the Massachusetts Rehabilitation Commission may petition the court for a
19 temporary restraining order to enjoin such interference.

20 (g) Notwithstanding any provision contained herein to the contrary, if during an
21 investigation conducted pursuant to Section 5 the alleged abuser seeks continued
22 contact with the alleged victim of abuse, the Commission, the Department of Mental
23 Health, the Department of Mental Retardation or the Massachusetts Rehabilitation
24 Commission may petition the court for a temporary restraining order to enjoin such
25 contact during the pendency of said investigation.

26 (h) The action may be brought either in the superior court for the county in which the
27 conduct complained of occurred or in the superior court for the county in which the
28 defendant resides or has his principal place of business. Said court may issue a
29 temporary restraining order or make such other orders or judgments as it may deem
30 appropriate. The court issuing said order against the defendant shall retain jurisdiction
31 of the matter. Any person who is restrained as a result of an action brought pursuant to
32 this section may petition the court for a modification or termination of the order upon
33 ten days written notice to the petitioning agency and the to the attorney general.

34 (i) In an action brought pursuant to this section, whenever the court issues a temporary
35 restraining order ordering a defendant to refrain from certain conduct or activities, the
36 order issued shall contain the following statement:

37 “The clerk shall transmit two certified copies of each such order issued under this
38 section to each appropriate law enforcement agency having jurisdiction over locations
39 where such defendant is alleged to have committed the act giving rise to the action,
40 and such law enforcement agency shall serve one copy of the order upon the
41 defendant. Unless otherwise ordered by the court, service shall be by delivering a copy
42 in hand to the defendant.”

43 Law enforcement agencies shall establish procedures adequate to ensure that all
44 officers responsible for the enforcement of the order are informed of the existence and
45 terms of such order. Whenever any law enforcement officer has probable cause to
46 believe that such defendant has violated the provisions of this section, such officer
47 shall have the authority to arrest said defendant.

48 Whenever the court vacates a temporary restraining order issued under this section,
49 the clerk shall promptly notify in writing each appropriate law enforcement agency
50 which has been notified of the issuance of the order and shall direct each such agency
51 to destroy all record of such vacated order, and such agency shall comply with such
52 directive.

53 (j) Any district attorney, law enforcement office or state agency receiving notice of
54 any alleged violation of this section or violation of an order issued in an action brought
55 under this section shall immediately forward written notice of the same together with
56 all relevant information that it may have to the office of the attorney general.

57 Whenever the attorney general has probable cause to believe that said order has been
58 violated, the attorney general may bring an action to enforce said order and to seek
59 punishment for violation of said order.

60 (k) After any such order has been served upon the defendant, any violation of such
61 order shall be punishable by a fine of not more than ten thousand dollars or by
62 imprisonment for not more than one year in a house of correction, or both such fine
63 and imprisonment.

64 Nothing contained herein shall prohibit the attorney general in his discretion from
65 beginning an action for civil contempt rather than seeking criminal charges for an
66 alleged violation of an order issued under this section. A court making a finding that
67 the defendant is in civil contempt by reason of an alleged violation of an order entered
68 under this section shall assess a civil penalty of not more than five thousand dollars for
69 each such violation found.