

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE DEPARTMENT  
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OFFICE OF THE STATE CLERK

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

By His Excellency

DEVAL L. PATRICK  
GOVERNOR

EXECUTIVE ORDER NO. 491

**Establishing a Policy of Zero Tolerance  
for Sexual Assault and Domestic Violence**

**(Revoking and Superseding Executive Order No. 398)**

WHEREAS, sexual assault and domestic violence affects people of all ages in every racial, socioeconomic, educational, and religious segment of society;

WHEREAS, sexual assault and domestic violence is a societal problem with consequences extending beyond the individual and family and into all areas of society, including the workplace;

WHEREAS, according to the National Coalition Against Domestic Violence, it is estimated that between 6 and 10 million women are abused by a current or former partner each year;

WHEREAS, according to the U.S. Department of Labor, domestic homicide is the leading cause of death for women in the workplace;

WHEREAS, more than 1 million women are stalked each year in the United States, and over a quarter of them report missing work as a result of the stalking;

WHEREAS, according to the Massachusetts Department of Public Health, 2,691 unduplicated incidents of sexual assault were reported to rape crisis centers and Llámanos y hablemos, the statewide Spanish language helpline, in FY 2005;

WHEREAS, the Massachusetts domestic violence statewide hotline, SAFELINK, reported receiving 21,637 calls from victims in FY 2006;

WHEREAS, Massachusetts courts issued 28,076 restraining orders involving domestic relationships in 2006;

WHEREAS, 57 percent of gay, lesbian, bisexual, and transgender victims of domestic violence become homeless due to abuse, 18 percent of whom report total financial and emotional loss;

WHEREAS, people with disabilities are raped and abused at a rate at least twice that of the general population of women;

WHEREAS, the U.S. Department of Labor estimates that domestic violence costs businesses an average of \$5 billion annually as a result of absenteeism, reduced productivity, medical expenses, increased health care costs, and litigation;

WHEREAS, the Centers for Disease Control and Prevention estimates that the total health care cost of intimate partner violence each year, including medical and mental health care costs, is nearly \$4.1 billion;

WHEREAS, victims of sexual assault and domestic violence attempting to end the abusive relationship are especially vulnerable in the workplace due to accessibility;

WHEREAS, the executive department of the Commonwealth is the largest employer in the state and has a responsibility to set an example for other employers; and

WHEREAS, the executive department of the Commonwealth should be a sexual assault-free and domestic violence-free workplace for all of its employees;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution of Massachusetts, Part 2, c.2, § 1, Art. 1, do hereby revoke Executive Order No. 398 and order as follows:

Section 1. For purposes of this executive order, the following terms shall have the following meanings:

“Domestic violence”, any action involving abuse as defined in section 1 of chapter 209A of the General Laws, or any action in violation of a restraining order issued pursuant to chapter 209A of the General Laws or any other applicable law of the Commonwealth;

“Sexual Assault”, any action involving causing another to engage in sexual relations by force, threat, or duress in violation of chapter 209A or chapter 265 of the General Laws, or any other applicable law of the Commonwealth;

“Stalking”, any pattern or series of acts, conduct, or threats causing or intended to cause alarm or fear in violation of chapter 209 A or chapter 265 of the General Laws, or any other applicable law of the Commonwealth;

“Employee”, any person employed full-time or part-time by an employer;

“Employer”, the Office of the Governor or any state agency as defined in section 1 of chapter 6A of the General Laws;

“Abuser”, a person who commits sexual assault, domestic violence and/or stalking;

“Restraining order”, any restraining order, injunction, or other legally enforceable requirement, whether issued pursuant to chapter 209A of the General Laws or other authority, providing that an abuser must avoid contact with and/or stay away from an alleged victim of sexual assault, domestic violence and/or stalking;

“Victim”, a person who is a victim of sexual assault, domestic violence, and/or stalking.

Section 2. It is the policy of the Commonwealth to have zero tolerance for sexual assault, domestic violence and stalking in any form at any place, whether at home, at the workplace, or elsewhere.

Section 3. All employers are directed to establish a policy of zero tolerance for sexual assault, domestic violence and stalking within their workplaces. Such policies shall be in writing and shall include the following elements: (i) a definition, description, and examples of sexual assault, domestic violence and stalking; (ii) a statement that any use of work time or workplace facilities to commit or threaten to commit acts of sexual assault, domestic violence or stalking is cause for discipline up to and including dismissal; (iii) a statement that all acts of sexual assault, domestic violence or stalking, regardless of whether they occur in or near the workplace, may be cause for discipline up to and including dismissal, and may be considered as part of the employee’s work history; and (iv) information indicating where victims and abusers can go for assistance, including but not limited to victim assistance hotlines and programs, sexual assault or domestic violence programs and shelters, and state certified batterer intervention programs. All department policies should be disseminated and readily accessible to all employees. Employers are directed to exercise their best efforts to include principles of zero tolerance for sexual assault, domestic violence and stalking in future collective bargaining agreements. Employers shall forward a copy of their department policy to the Director of Domestic and Workplace Violence Prevention within the Human Resources Division.

Section 4. Employers are directed to review their existing personnel policies and procedures and to revise them as necessary to ensure that they are responsive to the needs of victims.

Section 5. Employers are directed to create a climate that encourages victims to disclose abuse by posting local resource and reporting information in private and accessible locations within the workplace.

Section 6. Employers are directed to implement the Domestic Violence and Sexual Assault in the Workplace Prevention Training curriculum and delivery program developed by the Human Resources Division in coordination with the Executive Office of Public Safety and Security. This training shall focus on domestic violence and sexual assault awareness, workplace security and safety planning, the need for confidentiality and record keeping, conducting appropriate investigations, and appropriate referrals. Employers are directed to make this training available upon the hiring of new personnel and agency-wide every 2 years. The Director of Workplace and Domestic Violence Prevention for the Commonwealth shall work with agency personnel to provide and/or approve the workplace prevention training curriculum and delivery program to ensure training components are consistent with the Commonwealth's policy directives set forth herein.

Section 7. Employers are directed to respect the privacy of victims and to preserve confidentiality at all times, to the extent possible, in dealing with situations involving sexual assault, domestic violence or stalking.

Section 8. Employees shall be entitled to be absent from work for up to 15 days per year for purposes of victim counseling, obtaining medical treatment, attending legal proceedings, or carrying out other necessary activities, where such activities result from domestic violence or stalking and the employee is not the abuser, or where such activities result from sexual assault inflicted upon the employee or upon the employee's children where the employee is not the abuser. Such absences shall be paid, and shall be in addition to any other vacation time, personal time, or other paid leave time to which the employee is entitled.

Section 9. Employers are authorized and encouraged to grant up to 6 months of unpaid leave to an employee who is a victim, or whose children are victims where the employee is not the abuser, where the employee requests such leave as a result of sexual assault, domestic violence or stalking. Employers shall offer the same or a similar position to such employee upon the employee's return from leave.

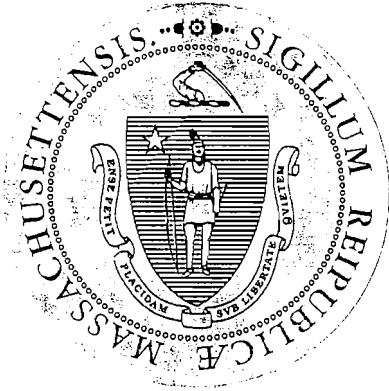
Section 10. An employee who so chooses may notify his or her employer of the existence of a 209A restraining order protecting the employee. Upon receipt of such notice, the employer shall make all reasonable efforts to monitor and enforce the restraining order in the workplace. Such efforts shall include notifying security personnel of the identity of the person against whom the restraining order is issued, and, where possible, providing such personnel with a photograph of such person. Employers shall make all reasonable efforts to provide a written workplace safety plan in response to an employee's specific safety concerns.

Section 11. If an employer becomes aware that a restraining order applicable to 1 or more of its employees is in effect, the employer may offer a victim reassignment to a different geographical location, and may require an employee who is an abuser to accept reassignment to a different geographical location, if the employer determines that such reassignment will help better ensure the safety of the victim or others in the workplace. Where a victim has requested reassignment, the employer shall give the request top priority.

Section 12. Employees who are abusers are on notice that the Commonwealth has zero tolerance for sexual assault, domestic violence and stalking. Employers are directed to report acts of sexual assault, domestic violence or stalking and violations of restraining orders that occur in the workplace to the appropriate law enforcement authorities.

Section 13. Where a judicial determination of probable cause has been made that an employee has committed an act of sexual assault, domestic violence or stalking, the employee may be disciplined up to and including termination by the employer regardless of whether such an act occurred in or near the workplace. Employers may also require such employees to attend a certified batterer intervention program, and may consider acts of sexual assault, domestic violence or stalking, along with the employee's success or failure in completing a certified batterer intervention program, as part of the employee's work history.

Section 14. This Executive Order shall remain in effect until amended, superseded, or revoked by subsequent Executive Order.



Given at the Executive Chamber in Boston this 31<sup>st</sup> day of *October* in the year of our Lord two thousand and seven and of the Independence of the United States, two hundred and thirty-one.

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a horizontal line.

DEVAL L. PATRICK  
GOVERNOR  
Commonwealth of Massachusetts

A handwritten signature in black ink, appearing to read "William Francis Galvin", written over a horizontal line.

WILLIAM FRANCIS GALVIN  
Secretary of the Commonwealth

**GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS**