



# Notice to Defendant Regarding c. 258E Harassment Prevention Order

*This is information that may help you understand the terms of your order.*

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Massachusetts law allows judges to issue orders to protect people from harassment. These orders are commonly called “Harassment Prevention Orders” or “258E Orders.”

The **plaintiff** is the person seeking protection from harassment. The **defendant** is the person accused of harassing the plaintiff. If a 258E Order issued against you, that means you are the defendant and a judge found that the plaintiff has met the legal standard. To meet the legal standard, the plaintiff must prove that they are suffering from harassment and that an order is necessary to protect them from harassment by the defendant.

It is important to read your order carefully so you understand what you can and cannot do. The types of protection a judge may put on the order issued against you include:

- **Do not abuse or harass the plaintiff.** This means you cannot physically harm or threaten the plaintiff, do anything that makes the plaintiff afraid you will hurt them, or force or threaten the plaintiff to have sex. You also cannot sexually assault the plaintiff, distribute nude or partially nude images of the plaintiff, or engage in willful and malicious conduct towards the plaintiff intending to make the plaintiff fear physical harm or property damage.
- **Do not contact the plaintiff.** This means you cannot contact the plaintiff in any way. This includes, but is not limited to, phone calls, text messages, emails, social media, cards, gifts, or having another person contact the plaintiff. This may also mean you must stay a specific number of feet or yards away from the plaintiff. If you are somewhere and the plaintiff comes to that same location, you must leave that place as quickly as possible, even if you were there first.
- **Stay away from the plaintiff's home and/or workplace.** This means you must stay a specific number of feet or yards away from the plaintiff's home and/or workplace. If the home is an apartment, you may be ordered to stay away from the entire building. You must stay away from these addresses even if the plaintiff is not there at the time.
- **Pay restitution for directly resulting losses.** This means you may be ordered to pay the plaintiff for costs related to the harassment, such as medical bills or costs to change the locks on a home.
- **Firearms surrender.** This means you cannot have any firearms, ammunition, licenses to carry firearms, or firearms identification cards. If you have any of these, you must immediately surrender them to the police. If you have a license, it is suspended for the duration of the order and you cannot apply for a new license while the order is in effect.

## Important questions you may have about your order.

### What happens next? Do I have to participate in follow up hearings about my harassment order?

The date, time, and location of the courthouse for the next hearing is listed on the 258E Order. If you do not participate in the hearing after receiving the order and the plaintiff does participate, the order may be extended for up to one year or more. If you want the court to consider anything you have to say or any



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evidence you would like to share, you must participate in the hearing on the date and time listed on the order. You may hire a lawyer to represent you, but you are not required to. All harassment orders that are due to expire will stay in effect until the matter is heard by a judge on the scheduled hearing date. The court will tell you about any future in person or virtual hearing dates.

### **What happens if I violate the order?**

A 258E Order is a civil order, but a violation of the order is a criminal offense. If you are found guilty of violating a 258E Order, you can go to jail for up to 2 ½ years and/or be placed on probation. A criminal conviction (even a continuance without a finding, also called a CWOFF) can affect your ability to get or keep a job, secure public housing, or continue the process to citizenship, including subject you to deportation if you are not a citizen. If the police see a violation of a 258E Order or have probable cause, meaning a reason to believe that you violated a 258E order, the police must arrest you. If you are on probation, violation of a 258E Order could also be a violation of your probation.

### **The plaintiff told me it is okay to ignore the order. Am I still in violation of the order?**

A 258E Order is a court order. That means that only a judge can change the order. The person who asked for the order **can't** change or end the order without going to the court and asking the judge to change the order. Even if the plaintiff seems to request or allow conduct forbidden by the order, you will be in violation of the 258E Order unless a judge has changed it.

### **What if I want to modify (change) or terminate (end) an order that was granted?**

If you want to change or end an order, you must establish at a hearing before a judge in the same court that issued the order by clear and convincing evidence that the current order is no longer necessary to protect the plaintiff from harassment. You will need to complete a Defendant's Motion to Modify or Terminate an Abuse Prevention Order/Harassment Prevention Order form and file it with the court. A judge will consider your request and determine if you have made a sufficient showing to schedule a hearing with the plaintiff. If the court does schedule a hearing, the court will let the plaintiff know when the hearing will be. You must not give or send the plaintiff notice of the hearing.

### **What if I disagree with the order?**

If you do not agree with the judge's decision, you can appeal. You have 30 days to appeal after the judge makes their decision. No matter what court issued the order, you must appeal to the Appeals Court. To start your appeal, you must file a Notice of Appeal at the clerk's office of the court that issued the order within 30 days of your hearing.

### **Who can I ask if I have questions about the order or the process?**

During court business hours (8:30am – 4:30pm), you can contact the court that issued the order to ask questions. Clerical staff will help answer your questions and give you any paperwork you may need. Interpreters are available at no cost. Please tell the court if you need language help. If you have questions and the court is closed, please contact the police.

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