



# Notice to Plaintiff 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 you asked the court for a 258E Order, that means you are the plaintiff. If a judge granted your request for an order without notice to the defendant, meaning the defendant did not know about the hearing, the court will schedule another hearing to be held within 10 days and send notice to the defendant so they have an opportunity to be heard in opposition to the order. At that hearing, you as the plaintiff have the burden, meaning responsibility, to show that an order is necessary to protect you from harassment.

It is important to read your order carefully so you understand what relief the court has ordered. The types of protection a judge may put on the order issued against the defendant include:

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



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

### Important questions you may have about your order.

#### **What happens next? Do I have to participate in follow up hearings about my 258E Order?**

The date, time, and location of the courthouse for the next hearing is listed on the 258E Order. If you want the current protection to continue, 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. If you do not come to the hearing, the order will expire at 4 p.m. on the expiration date listed on the order. If you come to the hearing, and the defendant does not come to the hearing, the order may be extended for up to one year or more. If both you and the defendant come to the hearing, the judge will consider evidence from both of you and make a decision about the order. The court will tell you about any future in person or virtual hearing dates.

#### **What happens if the defendant violates the order?**

A 258E Order is a civil order, but a violation of the order is a criminal offense. If the defendant violates the order, you should call the police to report the violation. If the defendant is found guilty of violating a 258E Order, the defendant could go to jail for up to 2 ½ years and/or be placed on probation. If the police see a violation of a 258E Order or have probable cause, meaning a reason, to believe that the defendant has violated the order, the police must arrest the defendant.

#### **Can the defendant still get in trouble for violating the order if I told them that it is okay to ignore it?**

A 258E Order is a court order. That means that only a judge can change the order. Even though you asked for the order you **can't** change or end the order without going to the court and asking the judge to change the order. Even if you seem to request or allow conduct forbidden by the order, the defendant will be in violation of the harassment 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 can contact the same court that issued the order to ask the judge to change or end the order. You will need to complete a Plaintiff's Motion to Modify or Terminate an Abuse Prevention Order/Harassment Prevention Order form and file it with the court. After you file your request, the court will determine if there needs to be a hearing with the defendant. If you are not asking to increase the protection granted to you by the court, notice to the defendant of the hearing is not required. If you are asking for increased protection in the order, a hearing is required for the defendant to receive notice and have an opportunity to be heard on your request. If the judge finds a substantial likelihood of immediate danger of harassment, the judge will issue the requested relief pending the hearing and the court will mail the defendant notice of the hearing date at least ten (10) days before the hearing.

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

If you do not agree with the judge's decision or are not given everything you asked for, 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. Clerical staff will help answer your questions and give you paperwork you may need. Interpreters are available at no cost: please tell the court if you need language help. If you have questions and court is closed, please contact the police.

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