

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Ms. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to housing rights for victims of domestic violence.

PETITION OF:

NAME:

Ms. Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02574 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

AN ACT RELATIVE TO HOUSING RIGHTS FOR VICTIMS OF DOMESTIC VIOLENCE.

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.** Chapter 186 of the General Laws, as appearing in the 2006 Official
2 Edition, is hereby amended by adding after section 22 the following new section;-
3
4 Section 23. 1. For the purposes of this section the following words shall have the following
5 meanings:
6 "domestic violence" shall have the same meaning as "abuse" as set forth in section 1 of chapter
7 209A
8 "occupant" a person living or sleeping in a dwelling provided that an occupant temporarily
9 absent from the dwelling for safety reasons, shall be considered an occupant.
10 "owner" shall have the same meaning as "owner" as set forth at 105 C.M.R. 410.036
11 "rape" shall mean the commission of any act as set forth in section 22, 22A, 23, 24 or 24B of
12 chapter 265 or sections 2, 3 or 17 of chapter 272.
13 "sexual assault" shall mean the commission of any act as set forth in sections 13B, 13F, 13H of
14 chapter 265 or section 35A of chapter 272.
15 "stalking" shall mean the commission of any act as set forth in section 43 of chapter 265.
16 "qualified third party" shall mean a police officer, licensed medical care provider, an employee
17 of a court of the state acting in the course of his or her duties, member of the clergy, attorney,
18 social worker, licensed mental health professional or other licensed counselor, or advocate
19 working at an agency that assists victims of domestic violence, rape, sexual assault, or stalking.
20
21 "Quitting date" shall mean the date upon which the tenant or occupant actually vacates the unit
22 and removes all her or his belongings and/or vacates the unit and notifies the owner that she or
he is abandoning the unit.

23 2.(a) If a tenant or occupant notifies the owner in writing that he or she or a member of her or
24 his household is a victim of domestic violence, rape, sexual assault or stalking, and any one of
25 the following applies, then subsection (3) of this subsection applies:

- 26 i. The tenant or occupant or a member of her or his household has a valid order for protection
27 under chapter 209A;
- 28 ii. The tenant or occupant or a member of her or his household has notified a law enforcement
29 officer of an act or acts of domestic violence, rape, sexual assault or stalking; or
- 30 iii. The tenant or occupant or member of her or his household has consulted with a qualified third
31 party and reported the domestic violence, rape, sexual assault or stalking to the qualified third
32 party.

33 (b) When a copy of the order for protection, police report, or verification of consultation with or
34 report to a qualified third party as provided by herein, is made available to the owner, the tenant
35 or occupant may terminate the rental agreement as provided in section 3 and quit the premises.
36 However, the request to terminate the rental agreement must occur within six months of the most
37 recent acts, events, or circumstances that gave rise to the protective order, report to a law
38 enforcement officer, or consultation with or report to a qualified third party.

39 Verification of consultation with or reporting to a qualified third party may consist of a
40 signed statement of the qualified third party or a form routinely provided by the qualified third
41 party for completion by clients. This form must be in substantially the following form:

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43

44
45 [Name of organization, agency, clinic, professional service provider]
46 I am or a member of my household is a victim of:
47 . . . domestic violence as provided by Massachusetts General Laws section 1 of chapter 209A.
48 . . . rape as provided by M.G.L. section 22, 22A, 23, 24 or 24B of chapter 265 or section 2, 3 or
49 17 of chapter 272.
50 . . . sexual assault as provided by M.G.L. section 13B, 13F, or 13H of chapter 265 or section
51 35A of chapter 272.
52 . . . stalking as provided by M.G.L. section 43 of chapter 265.

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54

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56 Signature

57
58 The incident(s) that I rely on in support of this declaration occurred on the following date(s): . . .
59

60 I state under penalty of perjury under the laws of the state of Massachusetts that the foregoing is
61 true and correct. Dated at.(city). ., Massachusetts, this . . . day of, 20.

62
63 Signature

64
65 I verify that the individual whose signature appears above informed me of his or her status as a
66 victim of domestic violence, rape, sexual assault or stalking or of said status of a member of
67 his/her household on this . . . day of . . . , 20.

68
69 Signature of authorized officer/employee of (Organization, agency, clinic, professional service
70 provider)

71
72 3. A tenant or occupant who terminates a rental agreement under this section is discharged from
73 the payment of rent for any period following the month of the quitting date, and is entitled to a
74 refund of any prepaid rent for any period following the month of the quitting date, and shall
75 receive a full and specific statement of the basis for retaining any of security deposit together
76 with any refund due in compliance with G.L. c. 186 section 15B. Other tenants who are parties to
77 the rental agreement are not released from their obligations under the rental agreement or other
78 obligations under this chapter.

79 4. (a) An owner may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a
80 rental agreement based on the tenant or occupant's or applicant's or a member of his or her
81 household's status as a victim of domestic violence, rape, sexual assault or stalking, or based
82 upon actions or failure to act that resulted from domestic violence, rape, sexual assault or
83 stalking directed at the tenant's or a member of his or her household. . An owner shall not
84 terminate a tenancy of a tenant who has provided temporary shelter to a victim of domestic
85 violence, rape, sexual assault or stalking based upon alleged unauthorized occupants. An owner
86 may not refuse to enter into a rental agreement based on the tenant or applicant having
87 terminated or having a history of having terminated a rental agreement under subsection 2 of this
88 section nor shall an owner cause to be made any written or oral inquiry or record concerning an
89 applicant's status as a victim of domestic violence, rape, sexual assault or stalking or history of
90 such status provided that if an applicant seeks a priority or preference from a housing provider
91 based upon the applicant's status as a victim of domestic violence, rape, sexual assault, or
92 stalking , or, if an occupant seeks assistance from a housing provider based upon the preceding
93 status, the provider may request documentation of the domestic violence, rape, sexual assault, or
94 stalking..

95 (b) An owner who refuses to enter into a rental agreement or who terminates a tenancy or
96 refuses to enter into a new tenancy or who makes inquiry into an applicant's status as a victim of
97 domestic violence, rape, sexual assault or stalking or history of such status in violation of this
98 section shall be liable to the tenant or applicant in a civil action for damages sustained by the
99 tenant or applicant. The tenant or applicant may also recover court costs and reasonable
100 attorneys' fees incurred in association with actions resulting from this section..

101 (c) This section does not prohibit adverse housing decisions based upon other lawful factors
102 within the owner's knowledge.

103 5. In any new action brought for possession of premises occupied for dwelling purposes
104 involving domestic violence, rape, sexual assault, or stalking, the court, consistent with its

105 existing equitable authority, shall have the authority to craft an equitable solution which protects
106 the legitimate concerns of all parties.

107 6.(a) Neither a tenant screening service provider nor an owner may include information in a
108 written or oral report to an owner pertaining to domestic violence, rape, sexual assault or
109 stalking; pertaining to the fact that the subject of the report is a victim of domestic violence, rape,
110 sexual assault or stalking; or that the subject of the report has terminated a rental agreement
111 under subsection 2 of this section.

112 (b) A tenant screening service provider or an owner who violates this section shall be liable in a
113 civil action for damages sustained by the subject of the report. The subject of the report may
114 recover court costs and reasonable attorneys' fees incurred as a result of violations of this section.

115 7. (a) An owner shall, upon the request of a tenant or occupant of a residential dwelling unit,
116 change the exterior locks of the dwelling unit in which the tenant or occupant lives if one or
117 more of the tenants or occupants reasonably believes that one of the tenants or occupants or a
118 member of the tenant or occupant's household is under a credible imminent threat of domestic
119 violence, rape, sexual assault, or stalking at the premises. The owner shall have the right to
120 request, in good faith, evidence to support a claim of domestic violence, rape, sexual assault or
121 stalking. However, no owner is required to request such evidence and can change the locks as
122 requested upon receipt of the written request of the tenant or occupant alone.

123 If the threat of domestic violence, rape, sexual assault or stalking is from a person who is
124 also a tenant or occupant of the leased dwelling unit, notice to the owner requesting a change of
125 exterior locks shall be accompanied by evidence to support a claim of domestic violence, rape,
126 sexual assault, or stalking including but not limited to orders pursuant to G.L.c. 209A, police
127 reports, or court records indicating which tenant or occupant is posing the threat of domestic
128 violence, rape, sexual assault, or stalking. The tenant or occupant requesting a change of exterior
129 locks shall not be required to obtain written notice from or give notice to the person posing a
130 threat regardless of which tenant is the lessee or head of household under a written lease or
131 tenancy at will.

132 Notwithstanding the preceding two paragraphs, where a court of the Commonwealth has
133 issued an order pursuant to G.L. c. 209A or any other provision of law, vacating a tenant or
134 occupant from the dwelling unit, the owner shall do nothing to interfere with this order and upon
135 a request to change the exterior locks as described in this section, shall comply with this request.

136 An owner complying with this section or with the requirements of a G.L. c. 209A or
137 other order, shall be relieved of any liability to the vacated tenant or occupant or to any other
138 third party on account of the owner's good faith compliance with the court order and/or the
139 owner's good faith changing the exterior locks as provided in this section.

140 (b) An owner who has received notice of a request for change of exterior locks as provided in
141 paragraph a. above, shall, within 48 hours, change the exterior locks or give the tenant or
142 occupant the permission to change the exterior locks. If the owner changes the exterior locks,
143 the owner shall give a key to the new exterior locks to the tenant or occupant requesting the
144 exterior lock change as soon as possible or not more than 48 hours of the exterior locks being
145 changed.

146 (c) An owner may charge a fee for the expense of changing the exterior locks. That fee must
147 not exceed the reasonable price customarily charged for changing an exterior lock in that
148 community.

149 (d) If an owner fails to change the exterior locks within 48 hours after being provided with the
150 notice described in paragraph a. above, along with evidence if required by paragraph a. above,

151 the tenant or occupant may change the exterior locks without the owner's permission. Where the
152 lease or tenancy agreement requires that the owner retain a key to the leased residential premises,
153 where the tenant or occupant changes the exterior locks, the tenant or occupant shall make a
154 good faith effort to give a key to the new exterior locks to the owner within 48 hours of the
155 exterior locks being changed. In the case where a tenant or occupant changes the exterior locks
156 without the owner's permission, the tenant or occupant shall do so in a workmanlike manner
157 with exterior locks of similar or better quality than the original exterior locks.

158 (e) Any owner who takes action to prevent the tenant or occupant who has complied with
159 paragraph a, above from changing his or her exterior locks or any owner who changes the
160 exterior locks and does not make a good faith effort to provide a key to the tenant or occupant as
161 provided in paragraph b above, shall be liable for actual and consequential damages or three
162 months' rent, whichever is greater, and the costs of the action including a reasonable attorney's
163 fee, all of which may be applied in setoff or recoupment against any claim for rent owed or
164 owing for use and occupancy. The superior and district courts shall have jurisdiction in equity to
165 restrain violations of this section. The provisions of section 18 of chapter 186 and section 2A of
166 chapter 239 shall apply to any act taken as a reprisal against any person for requesting the
167 exterior locks be changed in accordance with this section and/or for proceeding against
168 violations of this section. Any waiver of this provision in any lease or other rental agreement,
169 except with respect to any restriction specified or imposed by the United States or any agency
170 thereof or the commonwealth or any agency or political division, shall be void and
171 unenforceable.

172 8. No owner shall refuse to sell or negotiate for sale or lease or otherwise to deny or withhold
173 from any person or group of persons accommodations or land because of the person or group or
174 persons status as a victims of domestic violence, rape, sexual assault or stalking or history of
175 such status.

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177 **SECTION 2.** Section 2A of chapter 239 of the General laws, as appearing in the 2006 Official
178 Edition is hereby amended by inserting in line 14, after the words, "eighty-three A" the
179 following :

180 , or the tenant or a member of her or his household's taking any action pursuant to section 3 of
181 chapter 209A or taking any action pursuant to section 23 of chapter 186, or reporting to any law
182 enforcement official or court official any incident of domestic violence, rape, sexual assault or
183 stalking against the tenant or occupant or member of her or his household, or reporting to any
184 law enforcement official or court official the violation of any order issued pursuant to section 3
185 of chapter 209A or 23 of chapter 186, or any act of abuse as set forth in section 8 of chapter
186 209A directed against him or her

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188 **SECTION 3.** Section 3 of chapter 258C of the General laws, as appearing in the 2006 Official
189 Edition is hereby amended by adding, at the end, the following new section:

190 (G) Victim Compensation: In order to protect the health and safety of victims as defined in
191 Section 1 of Chapter 258C, expenses incurred by the victim for changing locks to a residential
192 dwelling unit shall be compensable in accordance with this chapter; provided however that when
193 claiming compensation for such expenses the claimant must demonstrate an out - of - pocket loss
194 or a legal liability for payment of said expenses. No expenses for lock changes shall be paid for
195 the expenses or the portion of expenses which are reimbursable by an insurance policy which
196 covers these costs.

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SECTION 4. This act takes effect immediately upon becoming law and applies to all tenancies existing at the time this act becomes law in addition to all tenancies coming into effect thereafter.