ASIAN TASK FORCE
Against Domestic Violence

Legal Protection from Abuse

Frequently Asked Questions

Legal Advocacy Program

24-hour multilingual helpline

(617) 338-2355

www.atask.org

ASIAN TASK FORCE
Against Domestic Violence

Legal Advocacy Program

Our Legal Advocacy Program strives to fill a critical gap in free legal services to victims of domestic violence and sexual assault of Asian or Asian-American heritage.

Started in 2009, we have been providing holistic multi-lingual and multi-cultural legal advocacy, representation, and counseling to ATASK clients to help secure their legal rights to become safe and independent individuals, freeing them from patterns of power and control used by abusers.

Our history of collaboration with community-based organizations, law schools, legal services and pro bono attorneys mean that we work diligently to ensure that no survivor is turned away without legal representation, strategic assistance, guidance, or a successful referral.

Disclaimer: The content of this page is for limited informational purposes only and is not legal advice. Before you decide on any course of action, ATASK strongly encourages you to seek the advice of a Massachusetts lawyer to help you analyze your unique and specific situation to find a solution best tailored to your needs.

What is considered abuse under Massachusetts abuse prevention laws?

If your partner, any family member related to you by blood or by law, or anyone who lives with you hits you, threatens to hit you, forces you to have sex against your will, and makes you afraid of them physically, you are being abused, and you can seek legal protection from a Massachusetts court.

If I am being abused or was recently abused, what can I do legally to protect myself?

You can call the police and ask them to:

- come to where you are,
- stop the abuse, help you with your medical needs, and
- formally report the abusive event. The police also may arrest your abuser.

You can also seek relief in court:

- you can file a criminal complaint,
- And/ or you can seek a protective order (also commonly known as a 209A restraining order) that requires your spouse or partner to stay away from you.

Source: M.G.L.A. 209A § 6

What happens if I call the police when I am abused?

If your English is limited, you have the right to an interpreter provided by the police.

The police must come to where you are located and help protect you regardless of your immigration status. They will interview you and your partner about what happened. They will write an official police report based on these interviews and their observations that can be used later in any court. You have the right to have a copy of this report for free.

The police may remain with you until you feel safe. If necessary, they may take you to the hospital or a shelter. They may also help you obtain an emergency restraining order against your abuser.

If they believe that abuse has occurred, they may arrest the abuser. If the police choose not to arrest and you fear for your safety, ask the police to take you to a shelter. For information on temporary and semi-permanent shelters, see Housing booklet.

Source: M.G.L.A. 209A § 6

May I bring criminal charges against my husband or partner who has abused me?

Only the government's attorney can bring criminal charges against your abuser. As victim, you are a witness. The government can charge the abuser with assault or assault and battery, or any other relevant criminal violations.

You can request the government bring criminal charges against your abuser by filing a criminal complaint with the criminal court. You cannot bring charges and you cannot drop charges.

Do I have to bring criminal charges against my abuser? What effects will a criminal charge

If the government decides to prosecute your abuser, your testimony as a victim witness is often critical for their success. If you decide not to testify, the government will decide whether they will continue with charges without you. In Domestic Violence cases where your testimony is the only evidence, the government will likely drop the case.

The government can bring charges even if you do not file a criminal complaint. If the police come to your home and witness evidence of abuse, the police or the prosecutors can also file a criminal complaint, and the government can choose to prosecute based on those complaints alone.

What if there are no criminal charges, but I want my spouse or partner to stop abusing me?

You can file for a 209A domestic violence restraining order which is an abuse prevention order.

The 209A restraining order can tell your abuser to stop abusing you (whether you continue to live with him), to stop contacting you, to stay away from your home or workplace and/or to move out if you are living with your abuser. It can also give you temporary custody of your child(ren) and child support if your abuser is your child's father.

A 209A protects you without charging your abuser with a crime. However, the abuser must comply with the order. If s/he violates the order, then that **is** considered a crime, and s/he can be arrested.

In order to qualify for a protective order, you must satisfy the following conditions:

1) You and your abuser are/were involved in an intimate relationship, reside or once resided in the same home, or are related by blood or marriage;

2) S/he must have threatened or attempted to inflict physical harm *on your body*, OR did in fact inflict physical harm *on your body*.

AND

3) You are afraid your abuser will physically harm you again very soon.

Your abuser could be a current or ex-spouse, current or former dating partner, a housemate or roommate, or any relative related to you by blood or marriage.

For information on how to apply for a restraining order and what occurs when your abuser violates the order, see Restraining Orders booklet.

Source: M.G.L.A. 209A

What if I do not have a domestic relationship with my abuser but I have been repeatedly harassed or intimidated by him/her?

You may be able to obtain a 258E Harassment Prevention Order to prevent further harassment.

To qualify for a 258E Harassment Prevention Order, your harasser must have had done one of the following:

1) committed three willful and malicious acts against you that intended to and did cause fear, intimidation, abuse, or property damage;

2) forced you to engage in sexual relations;

or

3) committed certain crimes including criminal stalking, rape, indecent assault, or battery of a child.

A Harassment Prevention Order can require your harasser to stop harassing and abusing you, to stop contacting you, to stay away from your home or workplace, and in some cases, to pay you monetary damages. Violating this order would be a crime.

You do not need to have any kind of domestic, family, or dating relationship with your abuser. You can use this to protect yourself against employers, co-workers, friends, acquaintances, strangers, etc.

For information on 258E Harassment Prevention Orders, see Restraining Orders booklet.

Source: M.G.L.A. 258E.

Need more help?

In an emergency please call 911

Safelink 1-877-785-2020

.....1-877-521-2601

Greater Boston Legal Services 617-371-1234

.....800-323-3205

Legal Advocacy and Resource Center, Inc.....617-603-1700

.....800-345-5297

Metro West Legal Services 508-620-1830

.....800-696-1501

Northeast Legal Aid 978-458-1465

.....800-336-2262

National Lawyers Guild 617-227-7008

Boston Bar Association Lawyer Referral Service ...617-742-0625

.....800-552-7046

Massachusetts Bar Association 617-654-0400

.....866-627-7577

ATASK is a domestic violence (DV) agency for pan-Asian victims and survivors in New England, serving clients in 14 Asian languages. Our mission is to prevent domestic violence in Asian families and communities and to provide hope to survivors.

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Urdu
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Tagolog (Filipino)
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Khmer (Cambodian)
Japanese
Korean
Manipuri

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