

Massachusetts make it easier to get a 209A restraining order

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[Restraining Orders](#)

Massachusetts Legislature drastically expands the type of behavior that qualifies as “Abuse” necessary to obtain an abuse prevention order pursuant to G.L.c. 209A, § 1 by including “Coercive Control”.



In June 2024, the Massachusetts House and Senate unanimously [passed a bill](#) that fundamentally redefines “abuse” in the context of 209A restraining orders. The bill, which also offers protections for victims of so-called “revenge porn”, could have sweeping implications as it formally introduces the concept of “coercive control” into a class of cases that have historically focused narrowly on threats or acts of *physical* violence.

Under [Chapter 209A](#), abuse prevention orders (or restraining orders) are reserved for people who are family members, live together, share children, or have been in a substantive dating relationship. The legal standard for obtaining a restraining order has

historically been centered around actual physical violence or the threat of physical violence.

The [definition for “Abuse” was previously limited to](#): (a) attempting to cause or causing physical

harm; (b) placing another in fear of imminent serious physical harm; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress.

On June 11, 2024, the Massachusetts Senate and House of Representatives significantly [amended](#) the definition of “Abuse” under Section 1 of chapter 209A of the Massachusetts General Laws to include “Coercive Control”. We explore these changes and their implications below.

What is Coercive Control?

Massachusetts has defined coercive control as:

(a) a pattern of behavior intended to threaten, intimidate, harass, isolate, control, coerce or compel compliance of a family or household member that causes that family or household member to reasonably fear physical harm or have a **reduced sense of physical safety or autonomy...**

According to coercive control expert, [Dr. Lisa A. Fontes, PhD.](#), coercive control is a multipronged strategy that some people use to dominate their intimate partners, restrict their partners’ freedom, and maintain their own privileges. Dr. Fontes posits that coercive control is best understood as a type of interpersonal cruelty that is especially intense when it occurs in the context of the all-encompassing framework of marriage. The goal is to dominate the partner, rather than simply to injure them physically. Abusers achieve domination by making victims afraid and denying them freedom and resources.

Coercive Control has long been considered a form of psychological abuse, but has only more recently be recognized by the law. It is used to isolate and chip away at the victim’s sense of self and self-esteem by controlling, manipulating and degrading them. Under the Commonwealth’s new legal standard for abuse, behavior such as controlling a family member’s finances, monitoring their activities, compelling them to abstain from or engage in a specific behavior, threatening to publish sexually explicit images, or using repeated court actions found by a court not to be warranted by existing law or good faith can all be considered abuse sufficient to qualify for obtaining a restraining order.

For survivors of domestic violence, this expanded definition will provide more safety by not having to wait until physical abuse is imminent before pursuing relief. Importantly, the law also recognizes that abuse can occur outside of physical violence. Of course, those accused of abuse under the revised statute will likely argue that the expanded definition opens a bigger window for [exaggerated claims of abuse that lead to the entry of unfair or unwarranted restraining orders.](#)

Massachusetts is not the first state to include coercive control as a standard for restraining orders but rather we have seen this upward trend in many states with similar bills enacted and pending nationwide. For instance, in 2021, Connecticut passed “[Jennifer’s Law](#)” which established a general definition of domestic violence including coercive control. California and Hawaii have [also passed coercive control laws](#), while, at the time this blog is published, similar bills are pending in states as diverse as New York, Florida and South Carolina.

How Will Coercive Control Impact 209A Restraining Orders?

The impact of the coercive control law on 209A orders will be immediate. As we have [blogged before](#), the prior legal standard placed physical violence at the absolute center of every 209A case, where the main provisions of the statute only provided relief if a plaintiff had experienced physical violence or in was in reasonable fear of imminent serious bodily harm:

In order for a 209A restraining order to be justifiably issued in Massachusetts, the person seeking it has to “prove abuse by fear of imminent serious physical harm,” and also that “the fear [is] reasonable.” [Iamele v. Asselin](#), 444 Mass. 734, 737 (2005). The requirement that the fear also be reasonable is an important one: It makes the deciding judge look at the facts and circumstances from their own eyes, rather than trying to put themselves in the shoes of the person asking for the restraining order.

The new bill allows victims of abuse to escape from the narrow confines of the fear of imminent serious bodily harm, and instead present evidence of non-physical forms of abuse, including a partner’s controlling behavior, coercive threats and pervasive manipulation and isolation. At a very basic level, plaintiff’s in 209A cases can now introduce evidence of a far broader array of abusive tactics to justify the issuance of an abuse prevention order.

The Impact of Coercive Control on Family Law Cases

In 2022, [Attorney Miraglia analyzed](#) how the coercive control analytical model can be used in cases involving individuals with narcissistic character traits in which she also touched on the work of Dr. Fontes:

Many intimate partner relationships involving narcissists includes elements of coercive control. Indeed, narcissists are notorious for engaging in a broad range of manipulative tactics – rather than physical violence alone – to reward themselves and make their partners feel entrapped. Intimate partners of narcissists often find themselves organizing their lives around pleading and avoiding the wrath of their partners. Where a child is involved, Dr. Fontes indicates that victim-partners also tend to organize their time around protecting the child from exposure to the abusive actions so the child will not be victimized directly or indirectly. Finally, coercive control recognizes that the abuse often extends far beyond the end of the relationship, particularly if the parties share a child.

In the divorce and family law context, [G.L. c.208, § 31A](#), requires Massachusetts family court judges to “consider evidence of past or present abuse toward a parent” in child custody decisions, and prohibits judges from granting custody to an abusive parent without written findings stating why the order is in “the child’s best interests”. (Similar language is found in [G.L. c.209C, § 10](#), which applies to unmarried parents.)

Although § 31A does not explicitly import the definition of “abuse” from Chapter 209A, the statute essentially restates the prior legal standard under 209A for abuse, where it states:

For the purposes of this section, "abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing bodily injury; or (b) placing another in reasonable fear of imminent bodily injury. "Serious incident of abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious

bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress.

The statute then goes on to say:

[T]he underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

The new coercive control bill does not include amendments to [G.L. c.208, § 31A](#) or [G.L. c.209C, § 10](#) revising the definition of “abuse” in the context of child custody proceedings. However, it is somewhat difficult to see how Probate & Family Courts – which issue 209A restraining orders as well as child custody orders – can ignore the new standard for “abuse” under Chapter 209A when making child custody determinations. After all, conduct is either abusive or not, and the definitions of abuse under both § 31A and § 10 are each clearly derived from Chapter 209A. Courts using divergent definitions for “abuse” in these closely related contexts seems untenable for practical and legal reasons.

Beyond the statutory definitions of abuse under § 31A and § 10, the new bill highlights several common behaviors found in child custody cases that have historically generated little attention in Massachusetts Probate & Family Courts. For example, the statute’s definition of abuse includes one party “using repeated court actions found by a court not to be warranted by existing law”. Historically, recourse against this kind of abusive, bad-faith litigation – which is all too common in child custody cases – has been limited to the law surrounding frivolous filings. The new law’s recognition of many similar forms of repetitive, harassment-style activities as “abuse” is likely to slowly shift how judges understand some parents’ behaviors.

More generally, the concept of coercive control may apply to divorce cases in which the “conduct” of a party is one of [numerous factors](#) considered in the division of marital assets. Although the presence of domestic abuse is generally not grounds for one party’s receipt of a disproportionate division of assets, there are certainly appellate cases in which one spouse’s history of abuse has impacted financial outcomes, including asset division and alimony. If nothing else, the increased use and acceptance of the coercive control model provides a potentially useful framework for contextualizing the problematic behaviors by spouses that have been historically under-considered by probate court judges.

Potential Concerns with New Bill

Although the new bill presents opportunities for victims of abuse, it is important to recognize some of the concerns that may arise with such a dramatic shift in the law. It is no secret that a party who obtains an abuse prevention order against their spouse typically has a “leg up” in their divorce proceeding. Historically, 209A restraining orders have only issued when there is at least some threat of violence. Under the new bill, judges will need to exercise their discretion to sift through behaviors that are merely annoying – or which make an individual a poor spouse or romantic partner – but should not rise to the level of abuse.

For example, has a husband or wife who repeatedly pesters their spouse not to get a drink with their colleagues after work engaged in abuse? What a spouse who suspects their partner of having an

affair and tracks their vehicle with a GPS sensor or cell phone application? Or a spouse who sends a few dozen angry text messages in the waning days of a failed relationship? Or a spouse that smashes a family picture in frustration? The new law gives judges many examples of potential forms of non-physical abuse, but ultimately, it will still fall to judges to determine whether behavior that could be characterized as annoying, immature, repetitive, angry or petty crosses the line into “abuse”.

Similarly, critics are likely to argue that concepts such as “a reduced sense of autonomy” are vague enough to be weaponized in situations where romantic partners are simply a bad match for one another. After all, how many spouses have cited their partner’s “smothering” or even “controlling” behaviors as grounds for seeking a divorce. Arguably, the new behaviors under the statute that are focused on a reduced sense of autonomy could open to the door to a laundry list of non-physical acts that make parties vulnerable to being served with a restraining order and removed from their current home.