

By Mr. Shannon, a petition (accompanied by bill, Senate, No. 925) of Charles E. Shannon, Dianne Wilkerson, Warren E. Tolman, Vincent P. Ciampa and Carol A. Donovan for legislation to require a counseling program for convicted domestic abusers. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT REQUIRING THOSE ON WHOM RESTRAINING ORDERS HAVE BEEN SERVED FOR DOMESTIC VIOLENCE TO ATTEND DOMESTIC VIOLENCE COUNSELING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 209A of the General Laws, as appearing in the 1994
2 Official Edition is hereby amended by inserting after section 7 the
3 following: —

4 1. Section 7A: Determination of eligibility; diversion to coun-
5 seling

6 (1) Upon granting an abuse prevention order, the court shall
7 hold a hearing to assess the defendant's likelihood of success in a
8 Batterer's Treatment Program. The court shall consider, but not
9 limited to, following factors:

- 10 1. safety needs of the victim and other family members;
- 11 2. victim's consent;
- 12 3. existence of substance use or abuse;
- 13 4. criminal history;
- 14 5. defendant's prior experience with counseling;
- 15 6. the nature and extent of the injury inflicted upon the victim;
- 16 7. any prior incidents of domestic violence by the defendant,
17 including, but not limited to, incidents documented in police
18 reports and medical records, if available;
- 19 8. any factors which would adversely influence the likelihood
20 of successful completion of the diversion program.

21 (2) The court shall order defendants who are eligible for treat-
22 ment, to participate in a certified Batterer's Treatment Program
23 for a period not less than one year with weekly sessions of a min-
24 imum of one and one-half hours class time duration, or until the
25 completion of said course. A court may require a defendant to par-
26 ticipate in additional sessions upon recommendation of the pro-
27 gram.

28 (3) A defendant ordered to enter a Batterers Treatment
29 Program, shall bear the cost of his counseling. The court shall
30 make inquiry into the financial condition of the defendant. If the
31 court finds the defendant incapable to pay the expense of the bat-
32 terer's program, in whole or in part, the court shall base
33 Defendant's cost on ability to pay.

34 Section 7B: Violations; Sentencing Guidelines

35 (1) The restrained party shall file proof of enrollment in a bat-
36 terer's program with the court within 30 days of the court decree.
37 The program shall immediately report any violation of the terms
38 of the abuse prevention order, including any new acts of violence
39 or failure to comply with the program requirements, to the court,
40 the prosecutor, the probation department if the court ordered the
41 defendant to formal probation.

42 (2) The court shall impose a minimum 90-day incarceration on
43 any defendant who commits any new act of violence after the
44 issuance of a restraining order. Incarceration shall not exceed two
45 years.

46 (3) The court may incarcerate any defendant who violates the
47 terms of the abuse prevention order. The court shall consider the
48 following factors in his determination whether to impose incarcer-
49 ation:

- 50 i. nature and seriousness of the violation;
- 51 ii. frequency of the violation;
- 52 iii. if the defendant was in treatment, the recommendation of
53 his consider;
- 54 iv. the victim's testimony; and
- 55 v. any other factor the court deems relevant to its determination.

56 (4) In addition to the above placements, nothing in this section
57 shall prohibit a court from also requiring a defendant to obtain
58 education, treatment, or rehabilitation for a substance abuse
59 problem if the court determines it is a factor in the alleged
60 violence.