

# 209A - a Four Letter Word? An Overview of Massachusetts Restraining Orders

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209A is in fact a four letter word in Massachusetts, and this is so because of the nasty implications a 209A order has on the person against whom one is issued. For those unaware, 209A is the common name for the Massachusetts species of domestic restraining orders, and it refers to the number of the chapter of the Massachusetts General Laws entitled "Abuse Prevention" that governs issuance and outlines the proceedings and procedures for these orders. The purpose of the law was to prevent the rising incidents of domestic violence and to give victims of domestic violence a much needed tool to protect themselves with the help of the court.

Sounds great, in theory. In reality, the much needed tool became an all too easy to use weapon. Judges routinely ignore the narrow definition of abuse, as it is defined in the law:

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

Moreover, the law provides that these orders can only be granted where there is a blood, marriage, dating, or co-habitation relationship. Ex spouses, ex fiancées, ex boyfriends/girlfriends are included as well. To set the nomenclature straight, and for the sake of this discussion: Plaintiff is the person asking the court for the order, Defendant is the person against whom the order is issued.

All too often, a vindictive ex spouse fabricates or greatly exaggerates a seemingly benign incident in an attempt to get a 209A order issued in their favor. A state employed Victim Witness Advocate is then appointed to essentially coach the "victim" on what to say in front of the judge. "Fear" appears to be the magic word, and even if "imminent serious physical harm" (note that those are actually four separate elements) is not obvious or not present at all, the orders are liberally granted nonetheless.

The order itself has SIXTEEN sub-parts, some are mandates and others are various prohibitions, and the judge can check the box next to the provisions that apply to a particular order. Discussing all sixteen parts is best left for another day. The most commonly used parts are:

Not to abuse the Plaintiff by causing the three instances of abuse listed above. Not to contact the Plaintiff and stay away a certain distance from the Plaintiff. E-mail is contact. Sending flowers is contact. All are violations, and therefore criminal offenses. Leave and stay away from residence of Plaintiff. It does not matter that the Defendant lives there as well or that the Defendant has no other place to stay. It further does not matter if the Defendant owns the property or if the lease is in the Defendant's name alone. Surrender all guns and licenses.

And of course, each order bears in large letters "VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE punishable by imprisonment or fine or both."

In this lawyer's opinion, judges must be constantly reminded of the requirements of the law, and that things like mere annoyance, excessive phone calls, emails, or unannounced visits are generally not adequate grounds for issuing a 209A order, as unpleasant as those actions may be. The "victim" may have a whole range of other criminal and civil recourse against the alleged offender, but 209A orders sought to patch up someone's love life or to "calm things down" between ex lovers are nothing short of blatant abuse of the law.

The extent to which a 209A order can negatively impact and nearly ruin a person's life, at least with the way the law is currently handled in Massachusetts, is enough to accept 209A as a true four letter word. Boston Attorney Dmitry Lev handles Criminal Defense and 209A Restraining Order Defense cases in Massachusetts. In addition, Attorney Lev assists individuals who had Restraining Orders issued against them and wish to have these orders removed, as well as those accused of violating these orders.

Attorney Lev maintains a blog at [www.levlaw.net/blog](http://www.levlaw.net/blog) and a website at [www.bostoncriminallaw.net](http://www.bostoncriminallaw.net)

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