

CHAPTER 4

SEPARATE SUPPORT

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GENERAL OVERVIEW

What Is Separate Support?

Separate support is court-ordered support from your spouse, awarded in a lawsuit specifically for separate support. You can file for separate support in the Probate and Family Court even when you are not asking for a divorce, but just want support for yourself or your children.

What Can I Request Under a Separate Support Case?

The lawsuit for separate support can cover several types of support and provisions, including

- support for yourself;
- custody of and support for your children;
- parenting time schedule;
- health insurance for you and/or your children;
- payment of the children's educational expenses;
- orders for your spouse to vacate from your home;
- orders to convey property to you; and
- restraining orders protecting you from abuse by your spouse.

For more about the types of support and awards that are available in a lawsuit for separate support, see “Relief,” below.

Under the law in Massachusetts, there are a number of circumstances when you can ask for separate support, such as

- when you are living apart from your spouse for justifiable cause;
- you have been deserted; or
- your spouse is not providing suitable support for you (even if you still live together).

See “Meeting the Legal Requirements—Eligibility,” below, for more about the eligibility for separate support.

How Does Separate Support Differ from a Divorce?

Some of the ways a divorce differs from a lawsuit for separate support include the following:

- a divorce terminates the marriage, but a lawsuit for separate support does not;
- a divorce makes a complete and final settlement of the marital property between the spouses, but a lawsuit for separate support does not;
- many of the listed factors a judge must consider in setting the amount of support differ; and
- the grounds to get separate support are different from the grounds for divorce.

In matters pertaining to children, such as court orders for custody, child support, medical insurance, and a parenting time schedule, the same principles generally apply in both a divorce case and in a lawsuit for separate support, and the results for the children generally would not be different.

If you do not want to ask for a divorce, you still can ask for separate support. In a lawsuit for separate support, the Probate and Family Court can order your spouse to help support you, without any consideration of a divorce. However, if you do file for divorce, you would not also file for separate support.

The statutory provisions for divorce generally appear in G.L. c. 208, while the statutory provisions for separate support generally appear in G.L. c. 209, § 30 et seq. The historical view is that the divorce laws and the laws for separate support constitute a complete statutory system intended to cover the field of support both before and after divorce. *See, e.g., Orlandella v. Orlandella*, 370 Mass. 225 (1976).

Practice Note

In some cases, an attorney's advice may be important to help you to decide what to do and to help you get what you need. If your case involves substantial financial issues or debts, economic inequality with your spouse, domestic violence, potential custody disputes, plans to relocate out of state, immigration problems, or other complex legal issues, it is advisable to consult with an attorney.

How Does Separate Support Differ from Alimony?

Both “separate support” and “alimony” refer to types of “spousal support.” Both separate support and alimony are support for the wife or the husband ordered by the court. In this sense, separate support and alimony are alike. See chapter 6, Alimony, Pensions, and Other Relief, if you want support in a divorce. See chapter 8, Child Support, if you want support for your children.

The differences between separate support and alimony can be summarized as follows:

- Separate support can be awarded in a lawsuit for separate support, and alimony can be awarded in a divorce case.
- The divorce court must look at the statutory factors under G.L. c. 208, § 53 when deciding the form (for example, one lump sum or periodic payments), the amount, and the length of time alimony periodic payments should be made. In a lawsuit for separate support, however, the Probate and Family Court must look at a different set of factors under G.L. c. 209, § 32. See “How Is the Amount of Support Determined in a Lawsuit for Separate Support?,” below.
- A judgment of divorce will include a final determination regarding marital property and may include a final determination regarding debts and alimony under G.L. c. 208, §§ 34 and 49–54; whereas a judgment of separate support does not determine the spouse's rights under G.L. c. 208, §§ 34 and 49–54. Note that filing a complaint for separate support—just like filing a complaint for divorce—may affect the determination of the length of the marriage for purposes of determining the duration of “general term” alimony—that is, how long periodic “general term” alimony payments can be ordered to be paid after a divorce judgment issues.
- Under federal law, a separate support judgment does not disqualify a surviving spouse from collecting a survivor annuity if the other spouse has a qualified retirement plan and dies before retirement, even if the decedent designated an alternative beneficiary. Employment Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 et seq.

The amount of spousal support that the court orders in a separate support case generally will depend on the respective needs and resources of each spouse. The incomes and the expenses of the spouses can be compared to determine if one spouse needs support and the other spouse has the ability to provide it. Temporary court orders for spousal support in a separate support case generally are determined based on these principal factors.

How Does Separate Support Differ from a Legal Separation?

“Separate support” commonly means the court-ordered support that you get from your spouse as a result of a lawsuit for separate support. Although the term “legal separation” is commonly used, in Massachusetts there is no specific lawsuit to get a legal separation. For married people who separate in Massachusetts, there are lawsuits for separate support, divorce, custody of children, and for abuse prevention—all of which may result in court-ordered support and other court orders.

“Legal separation” commonly means any actual separation of spouses that has some legal recognition. In Massachusetts, a separation might be recognized by court orders in the types of lawsuits mentioned above. In some of these cases, there might be a formal written agreement between the spouses that was approved and recognized by the court. Some people might be talking about the formal agreement between spouses when they mention a legal separation.

This formal written agreement between spouses usually is called a “separation agreement” (or sometimes, a “divorce agreement”). A separation agreement usually makes provisions for the children, for support, health insurance, the disposition of marital property and debts (when applicable), and for all other matters that should be decided when spouses divorce.

You can use a separation agreement in a lawsuit for separate support. It is required in a joint petition for divorce by G.L. c. 208, § 1A. However, a separation agreement does not deprive the Probate and Family Court of its power to decide on the matters included in the agreement. A separation agreement may not be binding until it is approved by a judge, since the court can modify or reject it. *See, e.g., Madden v. Madden*, 359 Mass. 356 (1971).

WHAT TO DO TO GET SEPARATE SUPPORT—THE FIRST STEPS

Meeting the Legal Requirements—Eligibility

To get an order of separate support from the court, you will have to meet the basic requirements of the law for people who are entitled to this type of support. These requirements are

- that you are married;
- that the opposing party/defendant is your spouse (that is, your husband or wife); and
- that one of the following is true:
 - that your spouse has failed to provide suitable support to you without justifiable cause;
 - that your spouse has deserted you;
 - that you are living apart from your spouse for justifiable cause; or
 - that you have justifiable cause to live apart from your spouse (whether or not you actually are living apart).

If you think of these legal requirements in terms of your eligibility to be awarded separate support by the Probate and Family Court, then you can be eligible for separate support even if you still live with your spouse, as long as if you have justifiable cause to live apart or if your spouse has failed to provide suitable support without justifiable cause. On the other hand, if you do live apart from your spouse, you must also show that there is justifiable cause for living apart.

What Is Justifiable Cause for Living Apart?

The term “justifiable cause” is used for describing the grounds for separate support by the statute, G.L. c. 209, § 32. When you fill out a complaint for separate support, you may check off boxes that say you are “actually living apart from defendant for justifiable cause” or that you have “justifiable cause for living apart.” A sample complaint is included as **Exhibit 4A**.

Justifiable cause for living apart includes the following:

- cruel and abusive treatment;
- desertion;
- adultery;
- confirmed habits of intoxication;
- gross nonsupport; and/or
- other fault grounds associated with divorce.

Justifiable cause generally requires proof of marital misconduct. Conduct that gives justifiable cause for living apart from your spouse includes offenses that are less severe than those required for a divorce. The judge may take into account all the circumstances that justify living apart.

For example, there was justifiable cause for a wife’s living apart from her husband in the following circumstance: The husband had kept late hours, called the wife bad names in front of their children, threw an object at her, and told her to get out. *Mezoff v. Mezoff*, 2 Mass. App. Ct. 799 (1974). However, in another case, there was no justifiable cause for a husband’s living apart from his wife, where his complaint was that she had exhibited inappropriate expressions of anger and made suicide attempts while suffering from mental illness. *Hano v. Hano*, 5 Mass. App. Ct. 639 (1977).

Completing and Filing the Necessary Papers

To begin a lawsuit for separate support, you will have to fill out a complaint for separate support. A sample complaint for separate support is included as **Exhibit 4A**. You can get the appropriate forms from the local Probate and Family Court.

In addition to your complaint for separate support, you may need to fill out some additional forms that are described below. Then you will have to take the completed forms and file them with the Probate and Family Court located in the appropriate county.

Forms Used to File for Separate Support

The following forms are needed to file for separate support:

- a complaint for separate support (see the sample complaint in **Exhibit 4A**);
- an affidavit disclosing prior care or custody proceedings (this is required if you have minor children from the marriage) (see sample affidavit in **Exhibit 5B**);
- an affidavit of indigency (this is used if you have a very low income and want the state to waive or pay for the costs of filing, the summons, and service of the complaint on the defendant) (see sample affidavit in **Exhibit 2A**);
- a financial statement (this is required for court hearings relating to financial issues and sometimes with the filing) (see sample financial statement in **Exhibit 4C**); and
- a certified copy of the marriage certificate (you can get this from the city or town where you were married).

Finding the Appropriate Court/Venue

The discussions of separate support in this chapter focus on the Probate and Family Court and the provisions of G.L. c. 209, § 32. There are alternative provisions in G.L. c. 209, § 32F for filing complaints for separate support that cannot include requests for custody or the transfer or sale of the home you own; in addition to the Probate and Family Court, these complaints for separate support can be filed in the District Court or in the Boston Municipal Court. Consult other resources or an attorney if you want to file your complaint for separate support in the District Court or Boston Municipal Court pursuant to G.L. c. 209, § 32F.

Generally, you may file your complaint for separate support in the Probate and Family Court in the county where either you or your spouse now reside. However, if you have left the county where you had lived together with your spouse and your spouse still resides in that county, then you must file your complaint for separate support in the county where your spouse still resides. General Laws c. 209, § 34 governs the venue for a complaint for separate support. If you are only asking for child support and not for separate spousal support, you can file a complaint for custody and child support in the county wherein the children or any one of them reside. G.L. c. 209, § 37.

Arranging Notice and Service of the Lawsuit

After you have filed the complaint for separate support in the appropriate court, you will have to arrange for notice and service of your complaint for separate support and a domestic relations summons on the defendant (your spouse). The court will issue you a summons upon request. However, it will be up to you to arrange for the service of the lawsuit on your spouse.

You will have to make arrangements with a constable or sheriff in the locality where your spouse resides in order to serve him or her with your lawsuit. The sheriff or constable will need to have the original summons and a copy of the complaint. The sheriff or constable will charge you for these services unless you have obtained the approval of the court on your affidavit of indigency/request to waive fees and costs for the state to pay the costs of service. If the court did approve your affidavit of indigency/request to waive fees and costs, then you will have to provide a copy of the determination regarding fees and costs to the sheriff or constable, along with the summons and the complaint for separate support. A sample affidavit of indigency is included as **Exhibit 2A**.

Answering a Complaint for Separate Support

If you are served with a complaint for separate support, you can

- file an answer to the complaint for separate support;
- file an answer and a counterclaim (demand) for separate support, if you have a case for separate support; or
- file an answer and a counterclaim (demand) for divorce, if you would like a divorce.

THE HEARING

Your Motion and How to Schedule a Hearing

After you file your complaint for separate support, you can file a motion for temporary orders and schedule a hearing at the court to get temporary orders for support in your lawsuit. In an emergency, such as when you need a protective order or a vacate order, you can file your motion with your complaint for separate support at the local Probate and Family Court. The court can make emergency orders to protect you from abuse or to order your spouse to vacate the marital home in the appropriate circumstances.

If you do not go to the local Probate and Family Court for emergency orders, you will have to contact the registry of the Probate and Family Court in the appropriate county to find out when you can have a motion heard and where you should send the motion papers. You can find a listing for the Probate and Family Court in your county on the court's website at <http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/#county>. A clerk at the Probate and Family Court can provide you with the appropriate forms and tell you what dates are available for your motion to be heard. (However, a court clerk cannot give you legal advice about what to do.)

You will have to fill out a motion form, or prepare a motion on a blank white piece of paper. A sample motion is included as **Exhibit 4B**. Along with the motion, you also can file an affidavit, which is a written statement made by you or another person in support of your motion signed under the pains and penalties of perjury. You will have to file the motion with the registry of the court, while sending a copy of the motion (that includes a notice of the date, time, and place of the hearing) to the defendant (or to his or her attorney, if the attorney already has filed a formal appearance with the court or has submitted the defendant's answer to the court). The court will then schedule the hearing at the date, time, and place that you have specified (assuming that you have confirmed that this date and place were available). The parties will be expected to appear at that time.

What to Expect at the Hearing for Separate Support

The first thing to do when you arrive at the courthouse is to find out which courtroom has been assigned for your case. Then you must check in with the assistant judicial case manager who normally will be sitting in front of the judge's bench in that courtroom. You probably will be asked to go somewhere to meet with the Probation Office (also known as the Family Service Office) and your spouse for dispute intervention services.

Unless there is a restraining order, you will be expected to meet in the courthouse with your spouse and a court employee, called a "probation officer" or a "family service officer." If you have a restraining order against your spouse (i.e., abuse protection orders or Chapter 209A orders), then you cannot be required to sit in the same room with your spouse; however, you may still be asked to communicate with the probation officer about your case.

The job of the probation officer at these hearings is to identify contested issues presented by your and your spouse's motions and to try to mediate them. See chapter 2, Overview of the Probate and Family Court, for more information about probation officers. You and your spouse will have to fill out a financial statement to be submitted to the court under the pains and penalties of perjury for any hearing involving a financial issue. You have a right to see his or her financial statement, and should take the time to review it. Since the financial statements show each party's income and expenses, as well as assets and debts, they are used by the court to determine how much support will be awarded, if any.

The issues presented by your motion will be resolved either by an agreement between you and your spouse or by the judge's decision. If you make an agreement (for example, how much support will be paid), that agreement will be set down in writing and the judge will be asked to approve the agreement as a temporary order of the court. When

the agreement becomes an order of the court, both parties are required to follow it until further order from the court. If you and your spouse cannot agree on an issue, you can ask the judge to decide that issue. Each party will be given a brief opportunity to explain his or her side of the case to the judge; usually, no witnesses will testify. The probation officer might report to the judge about your case to help the judge to better understand the issues being presented. In some cases, the judge might announce his or her decision from the bench; in other cases, the judge might send notice of his or her decision to the parties later by mail.

RELIEF—WHAT YOU CAN ASK THE COURT TO DO

Types of Relief

Although this chapter has focused on spousal support for you personally, you actually can ask for a wide variety of relief from the Probate and Family Court in your lawsuit for separate support. You can ask for

- spousal support, including regular support payments and health insurance coverage for yourself, G.L. c. 209, § 32;
- court orders with respect to your minor children, including orders for custody, parenting time, and child support, G.L. c. 209, §§ 37, 38 (under the Custodial Presumption Law, G.L. c. 209, § 38, the court must take into account evidence of abuse in deciding custody and parenting time);
- additional financial relief, including a wage assignment for the payment of support, court orders for the payment of your costs of maintaining the lawsuit (including attorney fees), and court orders for the attachment of property, G.L. c. 209, § 33;
- additional financial relief, in cases of abandonment by your spouse, including court orders for the transfer of property to you or authorizing you to sell, convey, mortgage, receive, or otherwise use and control property, G.L. c. 209, § 30;
- protective orders, including restraining orders and vacate orders, G.L. c. 209, § 32;
- a judgment that establishes your right to transfer and leave somebody your own property in a will as if you were single and giving your spouse no rights under Massachusetts laws to waive the provisions of your will or to make a claim against your estate in the event of your death while you are still married. This relief is available if you were deserted or if you are living apart from your spouse for justifiable cause. G.L. c. 209, § 36. But note that under federal law, a separate support judgment does not disqualify a surviving spouse from collecting a survivor annuity if the other spouse has a qualified retirement plan and dies before retirement, even if the decedent named someone else as beneficiary. Employment Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001 et seq.
- Another type of separate support action is available under G.L. c. 209, § 32F. Under this law, you cannot ask for custody, protective orders, or to transfer title to real property, but you can ask for child support, or, if you are living apart from your spouse and are not receiving suitable support, spousal support. There is no filing fee for this action, and it can be filed in a court in the district or county where either spouse lives. This type of action is often filed by the Department of Revenue (DOR) on behalf of a custodial parent seeking child support.

The provision and maintenance of health insurance coverage for you by your spouse will be ordered by the court whenever it determines that your spouse has health insurance available through employment or at a reasonable cost, which can cover you.

Support orders for the children of separated parents in a lawsuit for separate support are like child support orders in other Massachusetts cases. The court has broad powers to make orders relative to the dependent children's care, custody, education, and maintenance. The amount of child support generally is determined according to the Massachusetts Child Support Guidelines. In some cases spousal support may be calculated first, and in other circumstances child support may be calculated first. The court orders also may provide for the children's health-care coverage, the payment of the children's uninsured medical expenses, their educational costs, and other expenses related to their care or maintenance.

In a case of abandonment, the court can authorize you to sell, convey, mortgage, or receive both real property and personal property. The court can order your spouse to transfer or convey property to you. Such property includes

your home, motor vehicles, furniture, and furnishings. The court's authorization can extend to properties that belonged (jointly or individually) to your spouse. The court's authorization also can allow you to dispose of the proceeds or property as if you were the sole owner. The court's authorizations must be specific and generally will be granted only after your spouse has been given notice and an opportunity to be heard at a court hearing. These authorizations generally are given only to the extent necessary to provide for your adequate support. "Abandonment" as used in this law means that your spouse has left you and does not intend to return. G.L. c. 209, § 30.

In an action for separate support, you also may be able to attach your spouse's property (i.e., freeze the property until the action is resolved) in order to secure your right to receive support.

A nonresident married woman who has been abandoned in another state and whose husband has property in Massachusetts may find relief under G.L. c. 209, § 31.

How Is the Amount of Support Determined in a Lawsuit for Separate Support?

The suitable amount of spousal support in a lawsuit for separate support generally is what is reasonably necessary to support the separated spouse. The amount of spousal support that the court orders generally will depend on the respective needs and resources of the spouses. The incomes and the expenses of each spouse can be compared to determine if one spouse needs support and the other spouse has the ability to provide it. Unlike child support determinations, which must follow the Massachusetts Child Support Guidelines, there is no fixed formula to calculate how much separate support is fair and adequate. However, in a lawsuit for separate support in the Probate and Family Court, the court must consider the specific factors listed in G.L. c. 209, § 32 in setting the amount of spousal support.

The statutory factors for determining separate support include the following:

- the net income, assets, earning ability, and other obligations of your spouse;
- how many children must be supported, and how old they are;
- the living expenses of you, your spouse, and your children;
- the assets and net income of you and any of your children, including a deduction for child care;
- whether your spouse has any other children to support besides your children, even if there is not a court order to support those children and even if those children were born out of wedlock; and
- whether you or your children (if they are eighteen or older) are working or making reasonable attempts to find work; the court also will consider the necessity or availability of job training for you to find work, the need for you to be with your children during business hours, and whether you can obtain child care.

Practice Note

Even if your husband or your wife has been paying some spousal support voluntarily, the court can order an increase in the amount of support if the voluntary amount is inadequate. *See Brewer v. Brewer*, 329 Mass. 482 (1952) (husband's voluntary support payments were found to be inadequate).

No separate support order can leave the payor spouse with less money than he or she needs to live (i.e., the costs of food, shelter, utilities, and clothing) and to travel to work or to obtain work. G.L. c. 209, § 32.

The court is not limited to considering only these statutory factors; the court may also consider other factors. While the guidelines contained in the Alimony Reform Act of 2011 (see 2011 Mass. Acts c. 124, codified at G.L. c. 208, §§ 34, 48–55) at this time do not explicitly apply to the separate support statute, in addition to the separate support statutory factors, you may want to present information relating to the factors judges must consider when ordering alimony (G.L. c. 208, § 53). These factors include

- the length of the marriage,
- the ages of the parties,
- the health of the parties,
- the economic and noneconomic contribution of both parties to the marriage,
- the marital lifestyle, and
- lost economic opportunity as a result of the marriage.

Except for reimbursement alimony or unusual circumstances, the amount of alimony generally is limited to the recipient's need or between 30 to 35 percent of the difference between the parties' gross incomes. G.L. c. 208, § 53(b). Alimony orders within this range are considered reasonable. See chapter 6, Alimony, Pensions, and Other Relief.

Mandatory Self-Disclosure

The parties in a separate support action, like in a divorce action, must exchange certain documents within forty-five days from the date of service of the summons unless the parties agree otherwise. Supp. Prob. Ct. R. 410, Mandatory Self-Disclosure. These documents include federal and state income tax returns for the past three years, four most recent paystubs from each employer, documentation regarding the cost and nature of available health insurance coverage, statements for the past three years for all bank accounts, securities, stocks, bonds, notes, or obligations, certificates of deposit, and retirement accounts.

The parties must also provide copies of any loan or mortgage applications made within the last three years prior to the filing of the complaint, and copies of any financial statement and/or statement of assets and liabilities prepared within the last three years prior to filing the complaint. If any document is unavailable, the party must state in writing under the penalties of perjury the specific documents that are not available, the reason the documents are not available, and what efforts have been made to obtain the documents.

Protection from Abuse

No one should have to suffer from the abuse of his or her spouse during a separation. If you are afraid that your spouse will abuse you, you can ask the court to make abuse protection orders as part of a lawsuit for separate support. Alternatively, you can file a complaint for protection from abuse under G.L. c. 209A in the Probate and Family Court or in another court, such as your local District Court.

Harassment prevention orders, also known as 258E orders, may also be available, but the Probate and Family Court does not have the authority to issue these orders. Harassment prevention orders under G.L. c. 258E are available from the District Court, Boston Municipal Court, Juvenile Court, and Superior Court. See chapter 3, Safety and Protection Issues.

In a lawsuit for separate support, G.L. c. 209, § 32 provides for protective orders. The Probate and Family Court can

- prohibit your spouse from imposing any restraint upon your personal liberty;
- hold that violations of the protective orders are criminal in nature, and criminal proceedings may be instituted for violations of these orders; and
- order your spouse to vacate from your home.

The police have the power to arrest any person whom a law officer witnesses or has probable cause to believe has violated a criminally enforceable restraining order that has been issued pursuant to G.L. c. 209, § 32. The safety of the victim/survivor and any involved children is paramount in any decision to arrest. *See* G.L. c. 209A, § 6(7).

In addition to an order to prohibiting your spouse from imposing any restraint upon your personal liberty, the court may make "such further order as necessary to protect either party or their children, or to preserve the peace." These orders are requested by motion after the complaint for separate support is filed with the court.

A spouse can request a domestic relations protective order at the same time of filing the separate support complaint without advance notice to the other spouse only if there is a "substantial likelihood of immediate danger of abuse."

The judge can issue a domestic relations protective order just to "keep the peace" between spouses, or to protect a married person from abuse. Domestic relations protective orders can be criminally enforceable or not. If the order is criminally enforceable, you can call the police for help if the order is violated. If the order is not criminally enforceable, you will need to file a complaint for contempt action with the court to enforce the order if your spouse violates the domestic relations protective order.

If the court makes the domestic relations protective order criminally enforceable, the judge must provide procedural safeguards to the other spouse. Just like G.L. c. 208, § 18 in divorce cases, domestic relations protective orders in separate support legal actions have

[c]ome to serve two, somewhat different, purposes. First, the statute allows a judge to respond with some immediacy and flexibility to harassing behaviors that may be temporarily exhibited by parties during divorce proceedings, but which do not rise to the level of “abuse” justifying intervention under G.L. c. 209A. Second, it may be utilized for abuse prevention purposes akin to those of G.L. c. 209A, and, when used in that way, the serious consequences of such an order require that procedural formalities like those employed in 209A proceedings be observed.

Hennessey v. Sarkis, 54 Mass. App. Ct. 152, 155–56 (2002) (footnote omitted).

In a separate support action, as well as in a divorce action, you can ask the court to order your spouse out of (“to vacate”) the home you share with your spouse, or had shared with your spouse if your spouse left or if you left and did not return due to fear for the safety of any minor children or yourself. The provisions for vacate orders in divorce and separate support actions, G.L. c. 208, § 34B, include the following:

- The court can order your spouse to vacate (leave and/or stay away from) the marital home for a period of time not exceeding ninety days, and for additional periods of time that the court finds appropriate, during the pendency of the action.
- The court can enter the vacate orders if it finds, after a hearing, that the health, safety, or welfare of the moving party or any minor children residing with the parties would be endangered or substantially impaired by a failure to enter such an order.
- The court can enter emergency vacate orders (i.e., without prior notice to your spouse) if you show that there is a substantial likelihood that your spouse poses an immediate danger to your health, safety, or welfare or to any child that lives with you. The court will notify your spouse of the vacate order and give him or her an opportunity to be heard as soon as possible (not later than five days after the order is entered) on the question of continuing the temporary vacate order.
- The court can issue an order to vacate even though your husband or wife is not residing in the marital home at the time of its issuance, or even if you have left the marital home and have not returned there because of fear for your safety or for the safety of any minor child.

General Laws c. 208, § 34C makes a violation of a vacate order issued pursuant to Section 34B a criminal offense, punishable by a fine of not more than \$5,000 or by imprisonment for not more than two and one-half years in a house of correction, or both.

Whenever possible, the law requires that a person asking for protective order be provided information about protective orders in the complainant’s native language.

When considering a request for protective orders, the court will follow certain procedures. A judge will cause a search to be made of the statewide domestic violence records and will review the information to determine whether the defendant has a civil or criminal record involving domestic or other violence. If the judge finds that an outstanding warrant exists against the defendant, the judge will order that the police be notified. If the judge finds that an imminent threat of bodily injury exists to the person requesting the protective order, the judge will notify the police to take all necessary actions to execute the warrant and arrest the defendant as soon as possible.

MCLE and the author are grateful for the contributions of Douglas W. McCormac, Esq., to a previous version of this chapter.

EXHIBIT 4A—Complaint for Separate Support

Commonwealth of Massachusetts

Division Plymouth The Trial Court
 Probate and Family Court Department Docket No. _____

COMPLAINT FOR SEPARATE SUPPORT

1. Your Name, Plaintiff v. Spouse's Name, Defendant
 Plaintiff, who resides at Your address is the
(Street address) (City/Town) (State) (Zip)
 spouse of the defendant, who resides at Your spouse's address
(Street address) (City/Town) (State) (Zip)

2. The parties were married at (City/Town/State) on _____
(City/Town) (State) (Zip)
 and last lived together at (City/Town/county/state) on date you last lived together
(Date)

3. The minor or dependent child(ren) of this marriage is/are:
(Child's name and date of birth)
(name of child and date of birth) _____
(name of child and date of birth)

4. Plaintiff alleges:

Defendant is not providing suitable support, without justifiable cause.

He/she has been deserted by the defendant.

He/she is actually living apart from defendant for justifiable cause. Please explain:
(for example, defendant abused me)

He/she has justifiable cause for living apart. Please explain:

check one

5. Wherefore, plaintiff requests that the Court:

establish that such living apart from the defendant is for justifiable cause.

prohibit defendant from imposing any restraint on plaintiff's personal liberty.

grant plaintiff defendant custody of the above-named child(ren).

order a suitable amount for support of plaintiff and/or above-named child(ren) with suitable provision for health insurance.

order conveyance of the real estate located at _____
 standing in the name of _____
 as recorded with the _____ Registry of Deeds, Book _____ Page _____

check all that apply

Date today's date _____ Your signature
(Signature of attorney or plaintiff, if pro se)

(Print name)

(Street address)

(City/Town) (State) (Zip)

Tel. No. _____

B.B.O. # _____ C.G.F.

CJ-D 102 (4/07)

CHAPTER 4: SEPARATE SUPPORT

Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department
FINANCIAL STATEMENT
(Short Form)

Division (Your county) Docket No. _____

INSTRUCTIONS: if your income equals or exceeds \$75,000.00 annually, you must complete the LONG FORM financial statement, unless otherwise ordered by the court.

Your Name Plaintiff/Petitioner v. Spouse's Name Defendant/Petitioner

1. PERSONAL INFORMATION

Your Name Your Name Social Security No. _____
 Address Your address (unless impounded by the court) (Street address) (City/Town) (State) (Zip)
 Tel. No. Your phone number Date of Birth _____ No. of children living with you 1
 Occupation _____ Employer _____
 Employer's Address _____ (Street address) (City/Town) (State) (Zip)
 Tel. No. Your employer's phone number Do you have health insurance coverage? Yes No
 if yes, name of health insurance provider (for example, Mass Health)

2. GROSS WEEKLY INCOME/RECEIPTS FROM ALL SOURCES

a) Base pay from <input type="checkbox"/> Salary <input type="checkbox"/> Wages	\$ <u>0</u>
b) Overtime	\$ <u>0</u>
c) Part-time job	\$ <u>0</u>
d) Self-employment (attach a completed schedule A)	\$ <u>0</u>
e) Tips	\$ <u>0</u>
f) <input type="checkbox"/> Commissions <input type="checkbox"/> Bonuses	\$ <u>0</u>
g) <input type="checkbox"/> Dividends <input type="checkbox"/> Interest	\$ <u>0</u>
h) <input type="checkbox"/> Trusts <input type="checkbox"/> Annuities	\$ <u>0</u>
i) <input type="checkbox"/> Pensions <input type="checkbox"/> Retirement funds	\$ <u>0</u>
j) Social Security	\$ <u>0</u>
k) <input type="checkbox"/> Disability <input type="checkbox"/> Unemployment insurance <input type="checkbox"/> Worker's compensation	\$ <u>0</u>
l) Public Assistance (e.g. welfare, TAFDC, SNAP) (not included in gross income for child support)	\$ <u>0</u>
m) <input type="checkbox"/> Child Support <input type="checkbox"/> Alimony (actually received)	\$ <u>0</u>
n) Rental from income producing property (attach a completed Schedule B)	\$ <u>0</u>
o) Royalties and other rights	\$ <u>0</u>
p) Contributions from household member(s)	\$ <u>0</u>
q) Other (specify)	\$ <u>0</u>
_____	\$ _____
_____	\$ _____
r) Total Gross Weekly Income/Receipts (add items a-q)	\$ _____

EXHIBIT 4B—Motion for Separate Support

Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department

Your County Division _____ Docket No. _____

Your Name _____
Plaintiff/Petitioner

v.

Spouse's Name _____
Defendant/Respondent

MOTION FOR
Separate Support

Now comes Your Name _____, the plaintiff/defendant/petitioner/respondent,
(name of moving party)

in this action who moves this Honorable Court as follows: (1) support for the plaintiff;
(2) child support for the minor children of the parties; (3) custody
of the children; (4) health insurance; (5) conveyance of the 1992
Chevrolet motor vehicle for the exclusive use of the plaintiff.

[Get this information from the Court Register.]

NOTICE OF HEARING

This Motion will be heard at the Probate & Family Court in Centerville, Mass.
(city)

on June 1, 1998
(month/day/year)

at 9:00 a.m.
(time of hearing)

Your Signature _____
(signature)

Your Name _____
(PRINT name)

Your Address _____
(street address)

_____ (city or town) _____ (state) _____ (zip code)

Date: Today's Date _____ Tel. No. () Your Phone Number (if any)

The within motion is hereby **ALLOWED — DENIED.**

_____ Date _____ Justice of the Probate and Family Court

INSTRUCTIONS

1. Generally, refer to Mass.R.Civ.P./Mass.R.Dom.Rel.P. 6 and 7; Probate Court Rules 6, 29, and 29B.
 2. If the opposing party is represented by an attorney who has filed an appearance, service of this motion **MUST** be made on the attorney.
 3. Certificate of Service on Reverse side must be completed.
- CJ-D 400 (8/96)

EXHIBIT 4C—Financial Statement (Short Form)

Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department

Division _____ Docket No. _____

**FINANCIAL STATEMENT
(Short Form)**

3. ITEMIZED DEDUCTIONS FROM GROSS INCOME

a) Federal income tax deductions (claiming _____ exemptions) \$ 0

b) State income tax deductions (claiming _____ exemptions) \$ 0

c) F.I.C.A. and Medicare \$ 0

d) Medical Insurance \$ 0

e) Union Dues \$ 0

f) Total Deductions (a through e) \$ 0

4. ADJUSTED NET WEEKLY INCOME 2(r) minus 3(f) \$ 0

5. OTHER DEDUCTIONS FROM SALARY/WAGES

a) Credit Union Loan repayment Savings \$ 0

b) Savings \$ 0

c) Retirement \$ 0

d) Other-Specify (i.e. Child Support, Deferred Compensation or 401K) _____ \$ 0

e) Total Deductions (a through d) \$ 0

6. NET WEEKLY INCOME 4 minus 5(e) \$ 0

7. GROSS YEARLY INCOME FROM PRIOR YEAR \$ 20,000.00
(attach copy of all W-2 and 1099 forms for prior year)

Number of Years you have paid into Social Security 5 (total)

8. WEEKLY EXPENSES

a) Rent or Mortgage (PIT)	\$ <u>100</u>	l) Life Insurance	\$ <u>0</u>
b) Homeowners/Tenant Insurance	\$ <u>0</u>	m) Medical Insurance	\$ <u>0</u>
c) Maintenance and Repair	\$ <u>0</u>	n) Uninsured Medicals	\$ <u>5</u>
d) Heat	\$ <u>50</u>	o) Incidentals and Toiletries	\$ <u>10</u>
e) Electricity and/or Gas	\$ <u>20</u>	p) Motor Vehicle Expenses	\$ <u>75</u>
f) Telephone	\$ <u>25</u>	q) Motor Vehicle Payment	\$ <u>0</u>
g) Water/Sewer	\$ <u>0</u>	r) Child Care	\$ <u>0</u>
h) Food	\$ <u>100</u>	s) Other (explain)	\$ <u>15</u>
i) House Supplies	\$ <u>10</u>	<u>cable, internet</u>	
j) Laundry and Cleaning	\$ <u>25</u>		
k) Clothing	\$ <u>10</u>		
t) Total Weekly Expenses (a through s)		(total:)	\$ <u>445</u>

9. COUNSEL FEES

a) Retainer amount(s) paid to your attorney(s) \$ 0

b) Legal fees incurred, to date, against retainer(s) \$ 0

c) Anticipated range of total legal expense to litigate this action \$ _____ to \$ 0

Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department
FINANCIAL STATEMENT
(Short Form)

Division _____ Docket No. _____

10. ASSETS (attach additional sheet if necessary)

a) Real Estate

Location _____
Title held in the name of _____
Fair Market Value \$ _____ - Mortgage \$ _____ = Equity \$ 0

b) Motor Vehicles

Fair Market Value \$ 1,000 - Motor Vehicle Loan \$ 1,000 = Equity \$ 1,000
Fair Market Value \$ _____ - Motor Vehicle Loan \$ _____ = Equity \$ _____

c) IRA, Keogh, Pension, Profit Sharing, Other Retirement Plans:

Financial Institution or Plan Name and Account Number
"None" or list any \$ 0
\$ 0
\$ 0

d) Tax Deferred Annuity Plan(s)

e) Life Insurance: Present Cash Value

\$ 0
\$ 0

f) Savings & Checking Accounts, Money Market Accounts, Certificates of Deposit-which are held individually, jointly, in the name of another person for your benefit, or held by you for the benefit of your minor child(ren):

Financial Institution or Plan Name and Account Number
(Name of bank and type of account,
for example "checking" or "savings") \$ 100
\$ 0
\$ 0

g) Other (e.g. stocks, bonds, collections)

"None" or list any \$ 0
\$ 0

h) Total Assets (a through g) \$ 1,100

11. LIABILITIES (Do not list expenses shown in item 8 above.)

	Creditor	Nature of Debt	Date Incurred	Amount Due	Weekly Payment
a)	Bank One	living expenses	2017	\$ 1,000	\$ 0
b)	Dr. Smiley	dentist	2015	\$ 500	\$ 0
c)	National Grid	electricity	2017	\$ 550	\$ 0
d)				\$	\$

e) Total Liabilities \$ 2,050 \$ 0

Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department

Division _____ Docket No. _____

**FINANCIAL STATEMENT
(Short Form)**

CERTIFICATION

I certify under the penalties of perjury that the information stated on this Financial Statement and the attached schedules, if any, is complete, true, and accurate.

Date (date you sign form) Signature Your Name

INSTRUCTIONS: In any case where an attorney is appearing for a party, said attorney **MUST** complete the Statement by Attorney.

STATEMENT BY ATTORNEY

I the undersigned attorney, am admitted to practice law in the Commonwealth of Massachusetts--am admitted pro hoc vice for the purposes of this case-and am an officer of the court. As the attorney for the party on whose behalf this Financial Statement is submitted, I hereby state to the court that I have no knowledge that any of the information contained herein is false.

Date _____

(Signature of attorney)

(Print name)

(Street address)

(City/Town) (State) (Zip)

Tel. No. _____

B.B.O. # _____

EXHIBIT 4D—Domestic Relation Summons

Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department

BRISTOL Division Docket No. _____

Divorce/Separate Support Summons

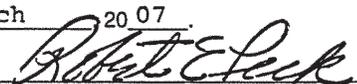
_____, Plaintiff
v.
_____, Defendant

To the above named Defendant:

You are hereby summoned and required to serve upon Douglas W. McCormac
plaintiff's attorney whose address is South Coastal Counties Legal Services, Inc., 21
South Sixth St., New Bedford, MA 02740 a copy of your answer to the complaint for Divorce Separate Support
(type of action)
which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service.
If you fail to do so, the Court will proceed to the hearing and adjudication of this action. You are also required to file your
answer to the complaint in the office of the Register of this Court at Taunton
either before service upon plaintiff's attorney or within a reasonable time thereafter.

Witness Elizabeth O'Neill LaStaiti Esquire, First Justice of said Court

at Taunton this 12th day of March 2007



Register of Probate

**AN AUTOMATIC RESTRAINING ORDER HAS BEEN ENTERED AGAINST THE ABOVE NAMED
PARTIES WHO ARE PROHIBITED FROM:**

- (1) Selling, transferring, encumbering, concealing, assigning, removing or in any way disposing of any property, real or personal, belonging to or acquired by, either party, except: (a) as required for reasonable expenses of living; (b) in the ordinary and usual course of business; (c) in the ordinary and usual course of investing; (d) for payment of reasonable attorney's fees and costs in connection with the action; (e) by written agreement of both parties; or (f) by Order of the Court.
- (2) Incurring any further debts that would burden the credit of the other party, including but not limited to further borrowing against any credit line secured by the marital residence or unreasonably using credit cards or cash advances against credit or bank cards;
- (3) Changing the beneficiary of any life insurance policy, pension or retirement plan, or pension or retirement investment account, except with the written consent of the other party or by Order of the Court.
- (4) Causing the other party or the minor child(ren) to be removed from coverage under an existing insurance policy, or permitting such coverage to lapse, including medical, dental, life, automobile, and disability insurance. The parties shall maintain all insurance coverage in full force and effect.

This order is in effect until the earliest of the following: (1) the order is modified or dissolved by the court; (2) the order is modified by a written agreement of the parties with court approval; (3) the entry of a judgment of divorce or separate support; (4) the action is dismissed; or (5) by further order of the court. FAILURE TO COMPLY WITH THIS ORDER MAY BE DEEMED A CONTEMPT OF COURT.

CJ-D 110A (01/00)

EXHIBIT 4E—Domestic Relations Protective Order

Form CJ-D 422

DOMESTIC RELATIONS FORMS

FORM CJ-D 422. DOMESTIC RELATIONS PROTECTIVE ORDER PAGE 1 OF 2

DOMESTIC RELATIONS PROTECTIVE ORDER	PAGE 1 OF 2	DOCKET NO.	Trial Court of Massachusetts Probate and Family Court Department
COMPLAINANT'S NAME	<input type="checkbox"/> G.L. c. 208, §18 (divorce) <input type="checkbox"/> G.L. c. 209C, §15 (paternity) <input type="checkbox"/> G.L. c. 209, §32 (abandonment or living apart for justifiable cause)		NAME AND ADDRESS OF COURT
RESPONDENT'S NAME AND ADDRESS			
RESPONDENT'S DATE OF BIRTH	<input type="checkbox"/> M <input type="checkbox"/> F	PCF NO.	
VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE punishable by imprisonment or fine or both.			
<input type="checkbox"/> This Order was issued without advance notice because the Court determined that there is a substantial likelihood of immediate danger of abuse.			
It is ordered by the Court that the Respondent is PROHIBITED from imposing any restraint upon the personal liberty of the Complainant.			
A. THE COURT HEREBY ISSUES THE FOLLOWING FURTHER ORDERS TO THE RESPONDENT: (only those items checked shall apply)			
<input type="checkbox"/> 1. YOU ARE ORDERED NOT TO ABUSE THE COMPLAINANT by harming or attempting to harm the Complainant physically, or by placing the Complainant in fear of imminent serious physical harm, or by using force, threat or duress to make the Complainant engage in sexual relations unwillingly.			
<input type="checkbox"/> 2. YOU ARE ORDERED NOT TO CONTACT THE COMPLAINANT (except for notification of court proceedings as permitted in this section), either in person, by telephone, in writing or otherwise, either directly or through someone else, and to stay at least _____ yards away from the Complainant even if that person seems to allow or request contact. Notification of court proceedings is permissible only by mail, or by sheriff or other authorized officer when required by statute or law.			
<input type="checkbox"/> 3. (*5) YOU ARE ORDERED TO STAY AWAY FROM THE COMPLAINANT'S WORKPLACE which is located at: _____			
<input type="checkbox"/> 4. (*6) THE COMPLAINANT HAVING CUSTODY OF THE CHILD(REN) LISTED BELOW, YOU ARE ORDERED NOT TO CONTACT THE CHILD(REN), either in person, by telephone, in writing or otherwise, either directly or through someone else, and to stay at least _____ yards away from them unless you receive written permission from the Court to do otherwise. _____			
<input type="checkbox"/> You are also ordered to stay away from the following school, day care, other: _____			
<input type="checkbox"/> 5. (*8) YOU MAY CONTACT THE COMPLAINANT BY TELEPHONE, FAX, OR E-MAIL ONLY FOR PURPOSES OF ARRANGING VISITATION WITH THE CHILDREN.			
<input type="checkbox"/> 6. (*13) YOU ARE FURTHER ORDERED _____			
*Numbers in parenthesis are for data entry purposes only.			
DATE OF ORDER	TIME OF ORDER	EXPIRATION DATE OF ORDER	NEXT HEARING DATE
	<input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	_____ at 4:00 P.M.	at _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
SIGNATURE/NAME OF JUDGE _____			

CJ-D 422 (12/00)

FORM CJ-D 422A. DOMESTIC RELATIONS PROTECTIVE ORDER PAGE 2 OF 2

DOMESTIC RELATIONS PROTECTIVE ORDER	PAGE 2 OF 2	DOCKET No.	TRIAL COURT OF MASSACHUSETTS PROBATE AND FAMILY COURT DEPARTMENT
<p>B. NOTICE TO LAW ENFORCEMENT.</p> <p><input type="checkbox"/> 1. An appropriate law enforcement officer shall serve upon the Respondent in hand a copy of the Complaint and a certified copy of the Order and make return of service to the Court.</p> <p><input type="checkbox"/> 2. If this box is checked, service may instead be made by leaving such copies at the Respondent's address shown on Page 1 but only if the officer is unable to deliver such copies in hand to the Respondent.</p> <p><input type="checkbox"/> 3. Respondent Information Form accompanies this Order.</p> <p><input type="checkbox"/> 4. Outstanding warrants for Respondent's arrest: _____ (Docket #s) _____ (PCF#)</p> <p><input type="checkbox"/> 5. An imminent threat of bodily injury to the Complainant does/does not exist. Notice issued to _____ Police Department(s) by <input type="checkbox"/> telephone, <input type="checkbox"/> fax, <input type="checkbox"/> other</p> <p><input type="checkbox"/> 6. Respondent has been served in hand by the Court's designee: Name _____ Date _____</p>			
<p><input type="checkbox"/> C. PRIOR COURT ORDER EXTENDED. After notice and a hearing, at which Respondent <input type="checkbox"/> appeared <input type="checkbox"/> did not appear, the Court has ORDERED that the prior Order shall be continued in effect until the expiration date below, when there shall be a further hearing.</p>			
DATE OF ORDER	TIME OF ORDER: <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF ORDER _____ at 4:00 P.M.	NEXT HEARING DATE: _____ at _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
SIGNATURE/NAME OF JUDGE _____			
<p><input type="checkbox"/> D. FURTHER EXTENSION. After notice and a hearing, at which Respondent <input type="checkbox"/> appeared <input type="checkbox"/> did not appear, the Court has ORDERED that the prior Order shall be extended until the hearing on the underlying complaint, or further order of the Court.</p>			
DATE OF ORDER	TIME OF ORDER: <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF ORDER _____ at 4:00 P.M.	NEXT HEARING DATE: _____ at _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
SIGNATURE/NAME OF JUDGE _____			
<p><input type="checkbox"/> E. PRIOR COURT ORDER MODIFIED. Upon motion by the <input type="checkbox"/> Complainant <input type="checkbox"/> Respondent and after a hearing at which the Complainant <input type="checkbox"/> appeared <input type="checkbox"/> did not appear and the Respondent <input type="checkbox"/> appeared <input type="checkbox"/> did not appear, the Court has ORDERED that the prior Order shall be modified as follows: _____</p>			
DATE OF ORDER	TIME OF ORDER: <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF ORDER _____ at 4:00 P.M.	NEXT HEARING DATE: _____ at _____ <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.
SIGNATURE/NAME OF JUDGE _____			
<p><input type="checkbox"/> F. PRIOR COURT ORDER VACATED. This Court's prior Order is vacated. Law enforcement agencies shall destroy all records of such Order. <input type="checkbox"/> VACATED AT COMPLAINANT'S REQUEST.</p>			
DATE OF ORDER	TIME OF ORDER: <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	SIGNATURE/NAME OF JUDGE _____	
<p><input type="checkbox"/> G. UNTIL FURTHER ORDER, THIS ORDER IS PERMANENT (only upon entry of a final judgment).</p>			
DATE OF ORDER	TIME OF ORDER: <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	SIGNATURE/NAME OF JUDGE _____	
Witness - First Justice		A true copy Abes: (Asst.) Register of Probate	

CJ-D 422A (12/00)

EXHIBIT 4F—Order to Vacate Marital Home

DOMESTIC RELATIONS FORMS

Form CJ-D 165

FORM CJ-D 165. ORDER TO VACATE—MARITAL—HOME PAGE 1 OF 2

ORDER TO VACATE—MARITAL—HOME PAGE 1 OF 2		DOCKET NO.	Trial Court of Massachusetts Probate and Family Court Department 
COMPLAINANT'S NAME	ORDER TO VACATE—MARITAL—HOME <input type="checkbox"/> G.L. c. 208, § 34B (Divorce, nullity of marriage, separate support) <input type="checkbox"/> G.L. c. 209C, §15 (paternity)* * Strike "marital" if under G.L. c. 209C.	NAME AND ADDRESS OF COURT	
RESPONDENT'S NAME AND ADDRESS		PCF NO.	
RESPONDENT'S DATE OF BIRTH <input type="checkbox"/> M <input type="checkbox"/> F			

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE punishable by Imprisonment or fine or both.

This Order was issued without advance notice because the Court determined that there is a substantial likelihood of immediate danger of abuse.

This Court finds there has been a showing that the health, safety or welfare of the Complainant or any minor child(ren) living with the parties would be endangered or substantially impaired were the Respondent to continue to reside in the marital home.

A. THE COURT HEREBY ISSUES THE FOLLOWING ORDERS TO THE RESPONDENT: (only those items checked shall apply)

- 1. (*3) YOU ARE ORDERED TO IMMEDIATELY LEAVE AND STAY AWAY FROM THE -marital- HOME, located at _____ The Court also ORDERS you (a) to surrender any keys to that residence to the Complainant, (b) not to damage any belongings of the Complainant or any other occupant, (c) not to shut off or cause to be shut off any utilities or mail delivery to the Complainant, and (d) not to interfere in any way with the Complainant's right to possess that residence, except by appropriate legal proceedings.
 If this box is checked, the Court also ORDERS you to immediately leave and remain away from the entire apartment building or other multiple family dwelling in which the Complainant's residence is located.
- 2. (*10) YOU MAY PICK UP YOUR PERSONAL BELONGINGS in the company of police at a time agreed to by the Complainant.
- 3. (*13) YOU ARE FURTHER ORDERED: _____

B. NOTICE TO LAW ENFORCEMENT.

- 1. An appropriate law enforcement officer shall serve upon the Respondent in hand a copy of the Complaint and a certified copy of the Order and make return of service to the Court.
- 2. If this box is checked, service may instead be made by leaving such copies at the Respondent's address shown on Page 1 but only if the officer is unable to deliver such copies in hand to the Respondent.
- 3. Respondent Information Form accompanies this Order.
- 4. Outstanding warrants for Respondent's arrest: _____ (Docket #s) _____ (PCF #)
- 5. An imminent threat of bodily injury to the Complainant does/does not exist. Notice issued to _____ Police Department(s) by telephone, fax, other _____
- 6. Respondent has been served in hand by the Court's designee: Name _____ Date _____

*Numbers in parenthesis are for data entry purposes only.

CJ-D 165 (12/00)

FORM CJ-D 165A. ORDER TO VACATE—MARITAL—HOME PAGE 2 OF 2

ORDER TO VACATE—MARITAL—HOME PAGE 2 OF 2		DOCKET NO.	Trial Court of Massachusetts Probate and Family Court Department	
<input type="checkbox"/> C. EX PARTE ORDER TO VACATE—MARITAL—HOME. Entry of this order is based upon the Court's finding of a substantial likelihood of immediate danger to the Complainant and/or to the child(ren). A hearing on whether to continue and/or modify the Order will take place no later than 5 days after the ex parte Temporary Order has entered. This and any subsequent Order(s) shall expire on the expiration date(s) indicated. Hearings on whether to continue and/or modify Orders will be held on dates and times indicated.				
DATE OF ORDER	TIME OF ORDER <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF ORDER	NEXT HEARING DATE	
		at 4:00 P.M.	AT <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	
SIGNATURE/NAME OF JUDGE _____				
<input type="checkbox"/> D. ORDER TO VACATE—MARITAL—HOME AFTER HEARING. After notice and a hearing at which the Respondent <input type="checkbox"/> appeared <input type="checkbox"/> did not appear, the Court has ORDERED that the prior Order shall be continued in effect until the expiration date below, at which time there shall be a further hearing. If this initial Temporary Order is made pursuant to G.L. c. 208, § 34B, it shall not exceed 90 days.				
DATE OF ORDER	TIME OF ORDER <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF ORDER	NEXT HEARING DATE	
		at 4:00 P.M.	AT <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	
SIGNATURE/NAME OF JUDGE _____				
<input type="checkbox"/> E. FURTHER EXTENSION After notice and a hearing at which Respondent <input type="checkbox"/> appeared <input type="checkbox"/> did not appear, the Court has ORDERED that the prior Order shall be extended as the Court deems appropriate. If this initial Temporary Order is extended pursuant to G.L. c. 208, § 34B, the extension shall be for a specific period of time.				
DATE OF ORDER	TIME OF ORDER <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF ORDER		
		at 4:00 P.M.		
SIGNATURE/NAME OF JUDGE _____				
<input type="checkbox"/> F. PRIOR COURT ORDER VACATED. This Court's prior Order is vacated. Law enforcement agencies shall destroy all records of such Order. <input type="checkbox"/> VACATED AT COMPLAINANT'S REQUEST OR <input type="checkbox"/> VACATED UPON ENTRY OF JUDGMENT.				
DATE OF ORDER	TIME OF ORDER <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.			
SIGNATURE/NAME OF JUDGE _____				
Witness - First Justice		A true copy Attest (Asst.) Register of Probate		

This order is null and void upon the entry of judgement of this matter.

