HOUSE DOCKET, NO. 2774 FILED ON: 1/18/2013

HOUSE . . . . . No. 1275

The Commonwealth of Massachusetts

PRESENTED BY:

Edward F. Coppinger

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to domestic violence and public safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Edward F. Coppinger	*10th Suffolk*
Massachusetts District Attorneys Association	*1 Bulfinch Place* *Boston, MA 02114*
Marcos A. Devers	*16th Essex*
Denise C. Garlick	*13th Norfolk*
Peter V. Kocot	*1st Hampshire*
John J. Lawn, Jr.	*10th Middlesex*
Paul A. Schmid, III	*8th Bristol*
Bruce E. Tarr	*First Essex and Middlesex*
Martin J. Walsh	*13th Suffolk*

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HOUSE . . . . . No. 1275

By Mr. Coppinger of Boston, a petition (accompanied by bill, House, No. 1275) of Edward F. Coppinger and others relative to penalties and submission of DNA samples for domestic violence. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to domestic violence and public safety.

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

SECTION 1. Section 3 of chapter 22E of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting before the first sentence the following:-

Any person who is arrested by virtue of process, or is taken into custody by an officer and charged with the commission of a felony shall submit a DNA sample upon arrest.

Said section 3, as so appearing, is further amended in lines 5 - 7, by striking the words "within 1 year of such conviction or adjudication or, if incarcerated, before release from custody, whichever occurs first" and inserting in place thereof the following:-

forthwith upon conviction.

SECTION 2. Section 11 of said chapter 22E, as so appearing, is hereby amended by striking the section, and inserting in place thereof the following words:-

Any person required to provide a DNA sample pursuant to this chapter and who fails to provide such DNA sample upon arrest, conviction or adjudication shall be subject to arrest, punishment by a fine of not more than $1,000 or imprisonment in a jail or house of correction for not more than six months or both.

SECTION 3. Section 15 of said chapter 22E, as so appearing, is hereby amended by inserting after the word "expunged", in line 3, the following words:-

If the original offense upon which the collection of DNA is based does not result in a conviction or adjudication; or

SECTION 4. Chapter 265, as so appearing, is hereby further amended by striking out section 13M, and inserting in place thereof the following section:-

21 Section 13M. (a) Whoever commits an assault or assault and battery on a family or
22 household member, as defined in section 1 of chapter 209A, shall be punished by imprisonment
23 in the house of correction for not more than 2 ½ years or by a fine of not more than $5,000 or
24 both.

25 (b) Whoever is convicted of committing an assault or assault and battery
26 on a family or household member, after having previously been convicted of, placed on
27 probation for, granted a continuance without a finding for, or otherwise having pleaded guilty to
28 or admitted to a finding of sufficient facts for (1) an assault or assault and battery on a family or
29 household member; (2) an offense that has as an element the use, attempted use, or threatened
30 use of physical force against the person of another; (3) an offense that has as an element the
31 possession, use, or threatened use of a deadly weapon; (4) a "sex offense" as defined in section
32 178C of chapter 6 of the General Laws, or (5) a violation of section 7 of chapter 209A, shall be
33 punished by imprisonment in the state prison for not more than 5 years or in the house of
34 correction for not more than 2 ½ years, or by a fine of not more than $10,000, or by both such
35 fine and imprisonment.

36 (c) For any violation of this section, or as a condition of a continuance
37 without a finding, the court shall order the defendant to complete a certified batterer's
38 intervention program unless, upon good cause shown, the court issues specific written findings
39 describing the reasons that batterer's intervention should not be ordered or unless the batterer's
40 intervention program determines that the defendant is not suitable for intervention.

41 SECTION 5. Chapter 265, as so appearing, is hereby further amended by inserting after
42 Section 15C the following section:--

43 Section 15D. (a) For the purposes of this section the following words shall have the
44 following meanings:

45 "Strangulation" shall mean the intentional interference of the normal breathing or
46 circulation of blood by applying pressure on the throat or neck of another.

47 "Suffocation" shall mean the intentional interference of the normal breathing or
48 circulation of blood by blocking the nose or mouth of another.

49 "Serious bodily injury" shall mean bodily injury that results in a permanent
50 disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of
51 death.

52 (b) Whoever strangles or suffocates another shall be punished by imprisonment in the
53 state prison for not more than 5 years or in the house of correction for not more than 2 ½ years,
54 or by a fine of not more than $5,000, or by both such fine and imprisonment.

55 (c) Whoever: (i) strangles or suffocates another and by such strangulation or suffocation
56 causes serious bodily injury; or (ii) strangles or suffocates another who is pregnant at the time of
57 such strangulation or suffocation, knowing or having reason to know that the person is pregnant;
58 or (iii) is convicted of strangling or suffocating another after having been previously convicted of
59 the crime of strangling or suffocating another under this section, or of a like offense in federal
60 court or the court of any state; or (iv) strangles or suffocates another who he or she knows has an
61 outstanding temporary or permanent vacate, restraining or no contact order or judgment issued
62 pursuant to section 18, 34B or 34C of chapter 208 , section 32 of chapter 209, section 3, 4 or 5 of
63 chapter 209A, section 7 or 10 of chapter 209A½, or section 15 or 20 of chapter 209C, in effect
64 against him or her at the time the offense was committed, shall be punished by imprisonment in
65 the state prison for not more than 10 years or in the house of correction for not more than 2½
66 years, and by a fine of not more than $10,000.

67 SECTION 6. Section 55 of chapter 276, as so appearing, is hereby amended by inserting
68 in line five after the words "or with intent to commit a felony" the following:-

69 or would constitute domestic abuse as defined in section 1 of chapter 209A or a violation
70 of an order issued pursuant to section 3, 4 or 5 of chapter 209A or section 34B or 34C of chapter
71 208.