HOUSE DOCKET, NO. 1754 FILED ON: 1/17/2013

HOUSE . . . . . No. 1371

The Commonwealth of Massachusetts

PRESENTED BY:

Danielle W. Gregoire

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 the authority of the Disabled Persons Protection Commission to seek restraining orders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Danielle W. Gregoire	*4th Middlesex*

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By Miss Gregoire of Marlborough, a petition (accompanied by bill, House, No. 1371) of Danielle W. Gregoire relative to the authority of the Disabled Persons Protection Commission to seek restraining orders. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1416* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to the authority of the Disabled Persons Protection Commission to seek restraining orders.

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 7 OF CHAPTER 19C OF THE GENERAL LAWS, AS APPEARING IN THE 2004 OFFICIAL EDITION, IS HEREBY AMENDED AS FOLLOWS: BY ADDING AFTER (D) THE FOLLOWING LANGUAGE:

(e) No person shall interfere with the provision of protective services or protective placement provided to a person with a disability who requests, consents or assents to receiving those services or placement. In the event that such interference occurs, the Commission, the Department of Mental Health, the Department of Mental Retardation or the Massachusetts Rehabilitation Commission may petition the court for a temporary restraining order to enjoin such interference.

(f) When a court order exists authorizing protective services for a person with a disability who lacks capacity to consent and any person interferes with the provision of such court-ordered protective services, the appropriate law enforcement agency shall enforce the order of the court, including but not limited to, taking the person with a disability into protective custody and transporting said person with a disability to an appropriate medical or protective services facility in order to provide the protective services as ordered by the court. In addition, said law enforcement agency, the Commission, the Department of Mental Health, the Department of Mental Retardation or the Massachusetts Rehabilitation Commission may petition the court for a temporary restraining order to enjoin such interference.

19 (g) Notwithstanding any provision contained herein to the contrary, if during an investigation
20 conducted pursuant to Section 5 the alleged abuser seeks continued contact with the alleged
21 victim of abuse, the Commission, the Department of Mental Health, the Department of Mental
22 Retardation or the Massachusetts Rehabilitation Commission may petition the court for a
23 temporary restraining order to enjoin such contact during the pendency of said investigation.
24 (h) The action may be brought either in the superior court for the county in which the conduct
25 complained of occurred or in the superior court for the county in which the defendant resides or
26 has his principal place of business. Said court may issue a temporary restraining order or make
27 such other orders or judgments as it may deem appropriate. The court issuing said order against
28 the defendant shall retain jurisdiction of the matter. Any person who is restrained as a result of
29 an action brought pursuant to this section may petition the court for a modification or termination
30 of the order upon ten days written notice to the petitioning agency and the to the attorney
31 general.
32 (i) In an action brought pursuant to this section, whenever the court issues a temporary
33 restraining order ordering a defendant to refrain from certain conduct or activities, the order
34 issued shall contain the following statement:
35 "The clerk shall transmit two certified copies of each such order issued under this section to
36 each appropriate law enforcement agency having jurisdiction over locations where such
37 defendant is alleged to have committed the act giving rise to the action, and such law
38 enforcement agency shall serve one copy of the order upon the defendant. Unless otherwise
39 ordered by the court, service shall be by delivering a copy in hand to the defendant."
40 Law enforcement agencies shall establish procedures adequate to ensure that all officers
41 responsible for the enforcement of the order are informed of the existence and terms of such
42 order. Whenever any law enforcement officer has probable cause to believe that such defendant
43 has violated the provisions of this section, such officer shall have the authority to arrest said
44 defendant.
45 Whenever the court vacates a temporary restraining order issued under this section, the clerk
46 shall promptly notify in writing each appropriate law enforcement agency which has been
47 notified of the issuance of the order and shall direct each such agency to destroy all record of
48 such vacated order, and such agency shall comply with such directive.
49 (j) Any district attorney, law enforcement office or state agency receiving notice of any alleged
50 violation of this section or violation of an order issued in an action brought under this section
51 shall immediately forward written notice of the same together with all relevant information that it
52 may have to the office of the attorney general. Whenever the attorney general has probable cause
53 to believe that said order has been violated, the attorney general may bring an action to enforce
54 said order and to seek punishment for violation of said order.
55 (k) After any such order has been served upon the defendant, any violation of such order shall
56 be punishable by a fine of not more than ten thousand dollars or by imprisonment for not more
57 than one year in a house of correction, or both such fine and imprisonment.
58 Nothing contained herein shall prohibit the attorney general in his discretion from beginning an

action for civil contempt rather than seeking criminal charges for an alleged violation of an order issued under this section. A court making a finding that the defendant is in civil contempt by reason of an alleged violation of an order entered under this section shall assess a civil penalty of not more than five thousand dollars for each such violation found.