SENATE DOCKET, NO. 348 FILED ON: 1/16/2013

SENATE . . . . . No. 794

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 by repeat offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karen E. Spilka	*Second Middlesex and Norfolk*
Gerald T. Leone	*Middlesex District Attorney*
Thomas M. Stanley	*9th Middlesex*
Denise Andrews	*2nd Franklin*

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SENATE . . . . . No. 794

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 794) of Karen E. Spilka, Gerald T. Leone, Thomas M. Stanley and Denise Andrews for legislation relative to domestic violence by repeat offenders. The Judiciary.

The Commonwealth of Massachusetts

An Act relative to domestic violence by repeat offenders.

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 13A of chapter 265 of the General Laws, as appearing in the 2010 Official Edition , is hereby amended by inserting after the words "chapter 209C," in line 17, the following:-

or section 42A, 58, or 58A of chapter 276

SECTION 2. Section 13A of chapter 265 of the General Laws, as appearing in the 2010 Official Edition , is hereby further amended by inserting after the existing paragraph (c), a new paragraph (d) as follows:-

(d) Whoever commits an assault and battery upon another who is a family or household member after previously being convicted of: violating 131M of chapter 140; violating section 7 of chapter 209A; violating section 9 of chapter 258E ; any offense under chapter 265; arson of a dwelling as set forth in section 1 of chapter 266; arson as set forth in section 2 of chapter 266; attempted arson as set forth in section 5A of chapter 266; armed burglary as set forth in section 14 of chapter 266; unarmed burglary as set forth in section 15 of chapter 266; breaking and entering in the nighttime as set forth in section 16 of chapter 266; breaking and entering in the daytime as set forth in section 17 of chapter 266; malicious explosion as set forth in section 101 of chapter 266; willful throwing or placing of explosives at or near persons or property a set forth in section 102 of chapter 266; possession of an infernal machine as set forth in section 102A of chapter 266; malicious destruction of property as set forth in section 127 of chapter 266; violating intimidation as set forth in section 13B of chapter 268; unlawful possession of a firearm, machine gun, sawed-off shotgun, large capacity weapon or large capacity feeding device as set forth in violating section 10 of chapter 269; possession, sale or use of a silencer as set forth in section 10A of chapter 269; possession or use of body armor in the commission of a crime as set forth in section 10D of chapter 269; subsequent firearm offense as set forth in section 10G of

24 chapter 269; possession or control of a firearm with serial or identification number removed or
25 mutilated as set forth in section 11B of chapter 269; removal or mutilation of serial or
26 identification numbers of firearms as set forth in section 11C of chapter 269; possession of a rifle
27 or shotgun as set forth in section 12D of chapter 269; discharge of a firearm as set forth in
28 section 12E of chapter 269; enticement as set forth in section 2 of chapter 272; drugging for sex
29 as set forth in section 3 of chapter 272; inducing a minor into prostitution as set forth in section
30 4A of chapter 272; living off of or deriving support from a minor prostitute as set forth in section
31 4B of chapter 272; deriving support from a prostitute as set forth in section 7 of chapter 272;
32 detaining or drugging to detain for prostitution as set forth in section 13 of chapter 272; open and
33 gross conduct as set forth in section 16 of chapter 272; unnatural and lascivious conduct with a
34 child as set forth in section 35A of chapter 272; being a habitual offender or criminal as set forth
35 in section 25 of chapter 279; or a like violation of the laws of another state, the United States or a
36 military, territorial or Indian tribal authority, shall be punished by imprisonment in the state
37 prison for not more than 5 years or in the house of correction for not more than 2½ years, or by a
38 fine of not more than $5,000, or by both such fine and imprisonment.

39 A prosecution commenced under this subsection shall not be continued without a finding
40 or placed on file. For any violation of this subsection, the court shall order the defendant to
41 complete a certified batterer's intervention program unless, upon good cause shown, the court
42 issues specific written findings describing the reasons that batterer's intervention should not be
43 ordered or unless the batterer's intervention program determines that the defendant is not suitable
44 for intervention.

45 (e) For the purposes of paragraph (d), "family or household member" shall mean persons
46 who (i) are married to each other or were married to each other; (ii) are residing together in the
47 same household or were residing together in the same household within the 5 years preceding the
48 date of the alleged offense; (iii) are related by blood; (iv) have a child in common; or (v) are or
49 have been in a substantial dating or engagement relationship within the 5 years preceding the
50 date of the alleged offense. In determining whether a relationship constitutes a substantial dating
51 or engagement relationship, the following factors shall be considered: (A) the length of time of
52 the relationship; (B) the type of relationship; and (C) the frequency of interaction between the
53 parties.