



Domestic Assault Charges in Massachusetts

What You Need to Know Right Now

We get you through the storm, safely.

Greater Boston • Eastern Massachusetts

Introduction

A domestic assault arrest often happens in the worst moment of an argument — sometimes started by a neighbor's 911 call, sometimes by someone who never expected the police to actually make an arrest. Many people caught up in this are not violent people. They are good people who had a really bad day — a fight that got loud, a moment that got physical, a partner who called for help and regretted it an hour later.

Whatever happened, you are probably scared right now. You may be worried about your kids, your home, your job, or whether the person you love is even safe. Those worries are real, and this guide won't dismiss them. It will walk you through what a domestic assault charge means in Massachusetts, what happens in the days right after an arrest, and what's at stake — so you can think clearly instead of panicking.

We wrote this guide because the rules in domestic assault cases are different from an ordinary criminal case in ways that surprise almost everyone who goes through it, and those differences matter enormously to what happens next.

What Counts as "Domestic Assault" in Massachusetts

Massachusetts doesn't have one single "domestic assault" charge. Instead, an incident that happens between people in certain relationships gets charged differently than the same incident would between strangers.

The most common charge is Assault and Battery on a Family or Household Member, under a law that didn't even exist until 2014. It requires the Commonwealth to prove four things: that you touched the alleged victim, that the touching was intentional, that it was either unwanted or likely to cause harm, and that you and the alleged victim were "family or household members" at the time.

"Family or household member" has a specific legal meaning here. For this particular charge, it means people who:

- Are or were married to each other, or
- Have a child together, married or not, or
- Are or have been in a substantive dating relationship — courts look at how long the relationship lasted, what kind of relationship it was, how often you saw each other, and how long ago it ended

This definition is narrower than the one used for restraining orders. The 209A restraining order law covers a wider circle of people — including current or former roommates, and anyone related to you by blood or marriage, such as a sibling, parent, or child. If the prosecution can't show you fit one of the three categories above for this specific charge, the domestic charge may not hold up — though an ordinary assault and battery charge, or a restraining order violation, could still apply.

Other charges that commonly come up alongside or instead of this one include strangulation, assault and battery on a person 60 or older, assault and battery on a pregnant person, and violating a restraining order.

The 209A Restraining Order — A Separate Track

This is the single most misunderstood part of domestic assault cases, so it's worth being very clear about it.

A 209A order is not a criminal charge. It's a civil court order, requested by one person (the plaintiff) against another (the defendant), asking a judge to require no contact, distance, or that you leave a shared home. It runs on its own track, separate from any criminal case — you can be facing a 209A order with no criminal charges at all, or criminal charges with no 209A order, or both at once.

How it usually starts. Most 209A orders begin with what's called an ex parte hearing — meaning the other person asks a judge for the order without you being there or even knowing about it in advance. If the judge believes there's a real, immediate danger, the order is issued on the spot. You typically find out when police hand you a copy.

What happens next. An ex parte order usually lasts about 10 court business days. Within that window, you get a hearing where you can actually show up, be heard, and contest whether the order should continue — often for up to a year.

Does a restraining order show up on a background check? Generally, no. A 209A order is a civil matter, not a criminal case, so it does not appear on your CORI — the standard criminal background check that most employers, landlords, and licensing boards actually run. Instead, it's recorded in a separate system called the Statewide Domestic Violence Registry Index, which judges and law enforcement can see, but which isn't part of an ordinary background check. If you violate the order, though, that violation is a criminal charge, and a criminal charge does appear on your CORI.

Why this matters more than people expect: *the order itself isn't a crime. But once it exists, violating any part of it — even a single text, even if the other person reaches out to you first — is its own separate criminal charge. Being invited to break a no-contact order is not a defense to breaking it.*

What Happens Right After the Arrest

Domestic assault arrests move differently than other criminal arrests, starting immediately.

- **A mandatory hold of up to 6 hours after arrest.** Massachusetts law requires this specifically so the alleged victim can be notified before you're released — it applies even if the other person wants you released right away.
- **An automatic no-contact order at arraignment.** This is different from a 209A order — it's a criminal court bail condition — but it does the same basic thing: no calls, texts, emails, or third-party messages.
- **Possible removal from your home,** even if you're on the lease or own the property.

Why this matters: *the alleged victim does not control whether your case goes forward. That decision belongs entirely to the district attorney's office. If the person who called the police changes their mind, asks for the charges to be dropped, or refuses to cooperate, the case does not automatically end — the DA's office can still proceed if they believe they have enough independent evidence, such as video, 911 recordings, photographs, medical records, or a third-party witness who saw or heard what happened. This surprises almost everyone, and it's one of the most frustrating parts of these cases for both people involved.*

If you've been charged before, or the facts alleged are serious, the prosecutor may ask for a dangerousness hearing — a separate proceeding, usually within a few days, where the Commonwealth argues you should be held without bail. If the judge agrees no other conditions would keep people safe, you can be held until trial or up to 120 days, whichever comes first.

First and Second Offense: What's Really at Stake

A first offense of Assault and Battery on a Family or Household Member is a misdemeanor, punishable by up to 2.5 years in the house of correction and a fine of up to \$5,000. Any conviction, or even a Continuance Without a Finding, generally requires completing a certified batterer's intervention program — a months-long commitment with weekly group sessions — unless the court specifically finds in writing that it shouldn't be ordered.

A second offense becomes a felony, punishable by up to 2.5 years in the house of correction or up to 5 years in state prison. This escalation is automatic — a prior domestic conviction anywhere in Massachusetts counts, regardless of how long ago it happened.

Certain factors make the charge more serious. If a dangerous weapon was involved, if the alleged victim was seriously injured, pregnant, or over 60, or if there was an outstanding no-contact order at the time, the charge can become a felony carrying significantly more prison exposure — in some cases up to 15 years.

Beyond the Courtroom

A domestic assault case rarely ends when the criminal case does. A few consequences reach much further than people expect.

Firearms — read this one carefully. Under federal law, anyone convicted of a misdemeanor crime of domestic violence — including a first-offense domestic assault and battery — is permanently barred from possessing firearms or ammunition. This is a federal rule, and it applies on top of anything Massachusetts does with your license to carry or FID card. Here's the part that catches people off guard: in Massachusetts, this kind of conviction generally cannot be sealed in a way that restores your firearm rights. Sealing a record limits who can see it, but under federal law, the firearms ban only lifts if a conviction is truly expunged, pardoned, or your civil rights are formally restored — and Massachusetts sealing does not do that. In practical terms, this federal ban is effectively permanent, even years later.

Custody and family court. A domestic assault charge or a restraining order can become a central issue in a separate family court case, affecting custody and parenting time long after the criminal case wraps up.

CORI, employment, and professional licenses. A conviction creates a criminal record specifically flagged as a domestic assault offense — one of the most closely scrutinized

categories on a background check. Jobs in education, healthcare, government, and any role involving children or vulnerable people can become difficult to get or keep. Professional licenses in law, medicine, nursing, and teaching may require the conviction to be reported, which can trigger its own disciplinary process.

Immigration. For non-citizens, a domestic assault conviction can carry serious immigration consequences. If this applies to you, it needs to be raised with your attorney immediately, before any decision is made about how to resolve the case.

None of this is meant to overwhelm you — it's meant to help you see the whole picture early, while there's still time to plan around it.

Possible Defenses

Right now it may feel like there's no way out. There usually is a path — it just depends on your specific facts.

- **Self-defense or defense of others.** Massachusetts law allows reasonable force to protect yourself or someone else, including a child, from immediate harm. If the alleged victim was actually the one who started the physical confrontation, this is a real and often successful defense.
- **Lack of intent.** The prosecution has to prove the touching was intentional — not accidental contact during an argument or while someone was trying to leave.
- **The relationship doesn't qualify.** If you and the alleged victim don't fit the legal definition of "family or household member," the domestic charge specifically may not apply, even if a lesser charge could.
- **Credibility and motive to fabricate.** Domestic cases often come down to one person's word against another's, with no independent witnesses. Divorce, custody disputes, and immigration proceedings can all create a motive to exaggerate or invent an allegation.
- **Insufficient evidence.** The Commonwealth has to prove every element beyond a reasonable doubt. No injury, no witnesses, and no physical evidence — just one person's account — is a real evidentiary weakness, not a formality.

If You've Just Been Arrested or Released

- **Do not contact the alleged victim, under any circumstances** — even if they reach out first. A no-contact order does not bend for an invitation.
- **Do not talk to police without a lawyer present.**
- **Follow every condition of your release exactly.** A violation is a new, separate charge on top of what you're already facing.
- **Write down what you remember while it's fresh** — the sequence of events, anything said, anyone who may have seen or heard what happened.
- **Preserve anything that could help you** — text messages, photos, voicemails, anything documenting the relationship or the incident.
- **Don't post anything about it on social media.**
- **Call an experienced attorney as soon as you can.**

Why the Right Lawyer Matters

Domestic assault cases move on a different track than most criminal matters — mandatory holds, automatic no-contact orders, dangerousness hearings, and a prosecutor's office that rarely dismisses these cases at the first court date. An attorney who handles these cases regularly knows how these hearings actually go in your specific court, how to challenge the relationship element when it doesn't hold up, and how to build a defense around credibility when a case comes down to one person's word.

We believe in comprehensive criminal defense — which means looking at your whole situation, not just the charge. That includes the criminal case, but also the restraining order question, the custody implications, and what happens next, so you're never facing this alone.

You Don't Have to Go Through This Alone

A domestic assault accusation is a storm crashing through your life — your freedom, your family, your home, your future.

You don't have to navigate it alone, and you don't have to figure it out as you go. We understand that good people sometimes face great challenges, and we treat every person we represent as exactly that: a good person going through the hardest time of their life. We view each client not as a set of legal problems, but as a whole individual living a unique and valued life — that's what we call Comprehensive Criminal Defense.

We are powerful in the courthouse and supportive outside of it — here to help you right the ship and continue your voyage.

We get you through the storm, safely.

If you're facing a domestic assault charge, the most important thing you can do right now is talk to someone who can look at your specific case.

We offer a free consultation for people with pending charges, and our phones are answered 24/7 by a real person. We serve clients throughout Greater Boston and Eastern Massachusetts.

Call 978-969-2890

H. Ernest Stone, Attorney PC

900 Cummings Center, Suite 321-U

Beverly, MA 01915

herneststone.com | es@herneststone.com

About the Author



H. Ernest Stone has been defending people in Massachusetts criminal courts for 30 years. He started his career in 1996 with one goal: to stand up for regular people facing the power of the government. Ernie practices criminal defense exclusively. He has handled cases in District Court, Superior Court, the Massachusetts Appeals Court, the Supreme Judicial Court, and the Federal Courts. His practice focuses on sexual assault, domestic violence, OUI, and cases involving mental health — the kinds of cases where the stakes are highest and where people need someone truly in their corner.

The people he represents are good people who have had a really bad day — sometimes the worst day of their lives. He believes that everyone deserves the highest quality legal defense, no matter what they are accused of. And he believes that a criminal case is an opportunity to do more than just fight the charges. His goal is to help people make lasting positive changes in their lives — to address what brought them into the system in the first place, and to come out the other side in a better place than where they started.

Ernie practices in Beverly, Massachusetts, and serves clients throughout Greater Boston and Eastern Massachusetts.