

ASSISTING MASSACHUSETTS VICTIMS OF CRIME AND DOMESTIC VIOLENCE WHO ARE HAVING PROBLEMS ESTABLISHING A NEW ACCOUNT OR PAYING THEIR UTILITY BILLS¹

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Domestic violence and crimes of violence affect far too many Americans. The most serious crime of violence – homicide – claims 15,000 to 20,000 lives annually in the United States. While Massachusetts has a lower-than-average violent crime rate, there are still over 100 murders in most years and tens of thousands of other crimes of violence. Nationally, one in three women report being the victim of rape, physical violence, or stalking by an intimate partner, at least once in their lives. Violence by intimate partners accounts for 15% of all violent crimes.

Violent crime and domestic violence can take a life, or cause grave personal injury. But acts of violence can create a cascade of other harm, including emotional trauma as well as financial problems.

Here, we will address just one of the financial harms a victim of domestic violence or crime may face: the need to establish new utility service, or ensure continued utility service. While Massachusetts does not have any laws or policies specifically designed to help address problems with utility bills if the consumer has been a victim of domestic violence or violent crime, there are some more broadly available tools that can prove very helpful.

I. USING “CUSTOMER OF RECORD” THEORY TO GET SERVICE IN YOUR CLIENT’S NAME

Massachusetts follows a “customer of record” theory, under which the person whose name is on the bill clearly is legally obligated to pay those bills, **but spouses and other household members whose names are not on the bill are not legally responsible to pay for any utility service that has been delivered.** For example, if a spouse – whether or not married to the person with whom they are living – needs to leave the home due to domestic violence, that spouse can set up an account in their own name **and is not responsible for any portion of the bills at the home the spouse left, even if they lived there and benefitted from that utility service.** Similarly, if one spouse is ordered to leave the house² and his or her name was on the bills, **the remaining spouse is generally not responsible for the bills sent under the name of the spouse ordered out of the home.**³ If the woman does not owe money to the utility company

¹ A much more detailed discussion of the rights of utility customers in Massachusetts is contained in the National Consumer Law Center publication, “Utilities Advocacy for Low-income Households in Massachusetts” (4th ed. 2019). That book contains relevant regulations and sample forms. We advise caution in relying on this highly-abbreviated summary and urge users to carefully review the actual regulations cited herein.

² For example, under Mass. Gen. Laws ch. 209A.

³ Note, however, under Mass. Gen. Laws ch. 209, § 1: “...both spouses [in a marriage] shall be liable jointly or severally for debts incurred in account of necessities furnished to either spouse or to a member of their family.” Utility service would usually be considered a “necessary.” This statute would thus allow a utility to seek payment for utility bills from one spouse, even if the bills were sent in the name of the other spouse. In practice, utilities

from a prior address, she can get service in her own name when she moves to a new address (e.g., fleeing the domestic violence) or, if she remains, after the man leaves the home.⁴

II. ASSISTANCE IN GETTING BILLS PAID

Victims of crime and domestic violence may simply have a hard time paying the bills, possibly because resulting physical injury limits the victim's ability to work, or – in the case of the domestic violence survivor whose partner been ordered to leave the home – having less household income available to pay the bills. Fortunately, Massachusetts has a panoply of programs and policies that help those who are struggling to pay their utility bills. While not specifically developed to address the needs of those who have suffered domestic violence or violent crime, they can still be beneficial, including for those victims who are legally responsible for paying the utility bills.

Payment plans: Massachusetts requires utility companies to offer payment plans of at least four months duration, on overdue bills.⁵ It is likely that the utility company would be willing to a payment plan of longer than 4 months, for a caller who identifies as a victim of crime or domestic violence, and that the household had lost income as a result.⁶ Even if the company is not willing to enter into a long enough payment plan, the customer can call the Department of Public Utilities Consumer Division, which has the authority to order the company to enter into a longer payment plan that it was initially willing to.⁷

Fuel assistance program: Massachusetts operates a program to help low-income households⁸ pay their home energy bills, including natural gas and electric bills. The program generally provides several hundred to one thousand dollars in payment assistance on those bills. For information on where to apply, see the “Cold Relief” brochure published by the state's Department of Housing and Community Development.⁹

III. PROTECTIONS AGAINST TERMINATION OF UTILITY SERVICE/ABILITY TO RESTORE TERMINATED SERVICE

sometimes do not assert their rights under this statute, and will establish service without seeking payment from the spouse whose name was not on the bills.

⁴ However, assume Spouse A is currently living at 100 Main Street, but previously lived at 67 Pleasant Street and has an unpaid balance from that prior address. If Spouse A gets an order under Mass. Gen. Laws ch. 209A that forces Spouse B to leave the home, and the bills were in Spouse B's at 100 Main street, Spouse A will still need to make a payment arrangement on the old bills from 67 Pleasant Street in order to get service in Spouse A's own name at 100 Main Street.

⁵ 220 Code Mass. Regs 25.01(2) (definition of “payment plan”).

⁶ Of course, some victims might not want to share that information.

⁷ The Department's Consumer Division can be reached at 617 737-2836 or 877 886-5066. Call volumes can be high at times, so it may take some persistence to get through. The Consumer Division's email address is DPUCustomer.Complaints@state.ma.us.

⁸ Defined as those with household income at or below 60% of state median income. For current income limits as of February 2019, review the state's “Cold Relief” brochure at: <https://www.mass.gov/files/documents/2016/10/ty/17coldreliefbrochure.pdf>. NOTE that the state updates this brochure annually.

⁹ <https://www.mass.gov/files/documents/2016/10/ty/17coldreliefbrochure.pdf>

Massachusetts has a broad range of protections against termination of utility service. In most cases, those protections would also require the company to restore already terminated service. Each of the four categories of protection is summarized below:

A. Serious illness protection – In Massachusetts, no electric or gas utility may terminate or fail to restore utility service when there is a serious illness in the household, as certified by a doctor, physician’s assistant, nurse practitioner, or local board of health, and a financial hardship in paying the bills.¹⁰ The illness can be short term or chronic; or physical, mental or emotional. The letter from the doctor/physician’s assistant/nurse practitioner/board of health is presumptively valid.¹¹ Therefore, it is in the discretion of the person drafting the letter – and NOT of the utility – to decide whether there is in fact a serious illness. **A customer seeking this protection must submit the serious illness letter just mentioned, along with a “financial hardship” form (described below).**

B. Infant protection - In Massachusetts, no electric or gas utility may terminate or fail to restore utility service when there is an infant in the household under the age of one, and a financial hardship in paying the bills.¹² Proof of age may be “in the form of a birth certificate, or letter or official documents issued by a registered physician, physician assistant, nurse practitioner, local board of health, hospital or government official, Department of Transitional Assistance, clergyman or religious institution.” **In order to get the protection, the customer must submit proof of the infant’s age, as noted above, and a “financial hardship” form (described below).**

C. Winter moratorium protection – In Massachusetts, no electric or gas company may terminate or fail to restore service if the date is between November 15 and March 15; the customer’s utility service provides heat or is needed to operate the heating system; the account was not shut off prior to November 15 due to non-payment; and the customer has a financial hardship in paying the bills. NOTE that the end date of the moratorium is often extended by the Department of Public Utilities to April 1, in response to a joint annual request from NCLC, the Attorney General, and the state’s utility companies. Also note that while utilities are not required to protect accounts that are not heat-related (e.g., the customer only uses gas for the stove, because the landlord provides the heat), many companies choose not to shut off accounts that are not heat-related. **In order to obtain winter moratorium protection, the customer only needs to submit a “financial hardship” form (described below).**

D. Elderly protection – The rules are a bit confusing, as there are slightly different rules in 220 Code Mass. Regs §§ 25.03(1)4. and 25.05. However, and simplifying somewhat, if the household fills out a form certifying that all adults in the household are over the age of 65, the utility company will treat this as a protection against termination, even though the utility could petition the Department of Public Utilities to allow a termination to go forward. NOTE that if an elderly customer who owns his or her home asserts this protection, and then fails to pay the bills as they come due, the company may sue the homeowner, (likely) obtain a judgment, and place a lien on the home.

¹⁰ 220 Code Mass. Regs 25.03(1).

¹¹ 220 Code Mass. Regs § 25.03(3).

¹² 220 Code Mass. Regs 25.03(1).

E. Financial hardship forms: As noted in A, B, and C above, a customer seeking certain protections against termination of utility service must submit a financial hardship form. A utility must treat a household as having a financial hardship if the household qualifies for the state’s fuel assistance program (also known as LIHEAP),¹³ which currently sets an upper income limit of 60% of state median income. Households with income somewhat above that limit can ask the Consumer Division of the Department of Public Utilities to determine that the household has a “financial hardship” in paying their utility bills.¹⁴ Each company uses its own financial hardship form, which can usually be obtained by calling a customer service representative at the company.

IV. ADDITIONAL RESOURCES

For a more detailed discussion of the topics discussed above, see, “Utilities Advocacy for Low-income Households in Massachusetts” (4th ed. 2019).¹⁵ That book contains relevant regulations and sample forms.

For advice on individual cases, email utility@nclc.org, or contact Charlie Harak (charak@nclc.org) or Jen Bosco (jbosco@nclc.org) at the National Consumer Law Center, 617 542-8010.

¹³ 220 Code Mass. Regs § 25.01(2)(definition of “financial hardship”).

¹⁴ 220 Code Mass. Regs § 25.01(2)(definition of “financial hardship”).

¹⁵ Available at <https://www.nclc.org/special-projects/stay-connected.html>.