



明光社

The Society for Truth and Light

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致勞工及福利局局長張建宗先生及各立法會議員：

本社於立法會網頁看見一份立法會 2007 年家庭暴力(修訂)條例草案法案委員會文件，〈立法會 CB(2)1948/07-08(01)號文件〉，目的是告知各委員，政府擬將同性同居者納入條例的涵蓋範圍內，但卻沒有交代原因。

政府曾於 2007 年 7 月及 11 月發出給各委員的兩份文件(立法會 CB(2)2739/06-07(01)號及 CB(2)330/07-08(02)號文件)中，清楚表示政府不會將同性同居者納入條例的涵蓋範圍內，以及清楚表示有關做法並沒有抵觸基本法及人權法案。此外，政府在文件 CB(2)2739/06-07(01)的第 b(iii)亦清楚表示條例旨在為指明類別的家庭暴力受害人提供額外的民事補救方法。在條例涵蓋範圍以外的人士可繼續根據民事侵權法或法院固有司法管轄權尋求保護。受伴侶施虐的同性關係人士仍有途徑尋求法律保障，請問這些途徑是否已消失？或是否沒有任何成效？否則，為何需要透過進一步修訂此家暴條例草案來達致同樣效果？

政府於 CB(2)330/07-08(02)號文件第二段及第三段表明條例並不涵蓋朋友、同學，或為了種種原因(包括共同經濟利益)而選擇或必須同住的人。條例草案將保護範圍擴大至涵蓋多類公開家庭關係的人。在香港，根據《婚姻條例》(第 181 章)締結的婚姻，在法律上指不容他人介入的一男一女自願終身結合。本港的法例反映政府的政策立場，即不承認同性婚姻、公民伙伴關係或任何同性關係。認同同性關係涉及社會倫理和道德的課題。這項政策立場的任何改變，將會對社會帶來重大影響。除非社會上已就此事達致共識或獲得大多數意見支持，否則不應改變此政策立場，政府及立法會絕對不應未經諮詢便暗渡陳倉。

政府計劃將同性同居者納入家庭暴力(修訂)條例，又不提供理據，會令市民大眾誤以為政府已承認同性同居者屬公開家庭關係，間接承認同性婚姻、公民伙伴關係或任何同性伴侶關係。就近年多宗司法覆核的結果，我們有理由相信一旦將同性同居者納入家庭暴力條例之內，而他們又不能好像其他異性一樣透過結婚而組織家庭的話，有關人士必定會透過司法覆核，指控政府不容許他們結婚的做法構成歧視。假若政府沒有推動同性婚姻的意圖，便需提出足夠理據，解釋為何將同性同居者納入家庭暴力條例，政府若未能就政策為何前後不一致給予社會大眾一個清晰的交代，只會令市民對政府失去信心，削弱政府的管治威信。

本社認為任何暴力行為皆是文明社會所不容的，政府亦有責任保護每一位受虐人士，不論他的身份。因此，為免令市民大眾誤以為政府已承認同性同居者屬公開家庭關係，本社建議政府參考美國麻省的做法，參看附件，將條例的保障範圍擴闊至所有同一屋簷下的人士，包括家傭、業主租客、朋友、同學及任何同居人士等等。

二零零八年五月二十日

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BOSTON MUNICIPAL COURT DISTRICT COURT PROBATE & FAMILY COURT SUPERIOR COURT DIVISION

Name of Plaintiff (person seeking protection)

Name of Defendant (person accused of abuse)

Plaintiff's Address. DO NOT complete if the Plaintiff is asking the Court to keep it confidential. See K. 4. below.

Def. Date of Birth Defendant's Alias, if any

Daytime Phone No. ()

Defendant's Address Day Phone ()
 Sex: M F

If the Plaintiff left a former residence to avoid abuse, write that address here:

Social Security # Place of Birth

am over the age of eighteen.
 am under the age of eighteen, and my _____ (relationship to Plaintiff) has filed this complaint for me.

Defendant's Mother's Maiden Name (first & last)

The Defendant is is not under the age of eighteen.

Defendant's Father's Name (first & last)

To my knowledge, the Defendant possesses the following guns, ammunition, firearms identification card, and/or license to carry:

The Defendant and Plaintiff:
 are currently married to each other
 were formerly married to each other
 are not married but we are related to each other by blood or marriage; specifically, the Defendant is my _____

Are there any prior or pending court actions in any state or country involving the Plaintiff and the Defendant for divorce, annulment, separate support, legal separation or abuse prevention? No Yes
 If Yes, give Court, type of case, date, and (if available) docket no.

are the parents of one or more children
 are not related but live in the same household
 were formerly members of the same household
 are or were in a dating or engagement relationship.

How about (dates) _____ I suffered abuse when the Defendant:

Does the Plaintiff have any children? No Yes If yes, the Plaintiff shall complete the appropriate parts of Page 2.

attempted to cause me physical harm
 caused me physical harm

placed me in fear of imminent serious physical harm
 caused me to engage in sexual relations by force, threat of force or duress

THEREFORE, I ASK THE COURT TO ORDER:

- 1. the Defendant to stop abusing me by harming; threatening or attempting to harm me physically, or placing me in fear of imminent serious physical harm, or by using force, threat or duress to make me engage in sexual relations unwillingly.
- 2. the Defendant not to contact me, unless authorized to do so by the Court.
- 3. the Defendant to leave and remain away from my residence which is located at: _____

If this is an apartment building or other multiple family dwelling, check here

- 4. that my address be impounded to prevent its disclosure to the Defendant, the Defendant's attorney, or the public. Attach Request for Address Impoundment form to this Complaint.
- 5. the Defendant to leave and remain away from my workplace which is located at: _____
- 6. the Defendant to pay me \$ _____ in compensation for the following losses suffered as a direct result of the abuse: _____

You may not obtain an Order from the Boston Municipal Court or a District or Superior Court covering the following item 7 if there is a prior or pending Order for support from the Probate and Family Court.

- 7. the Defendant, who has a legal obligation to do so, to pay temporary support for me.
- 8. the relief requested on page two of this Complaint pertaining to my minor child or children.
- 9. the following: _____

10. the relief I have requested, except for temporary support for me and/or my child(ren) and for compensation for losses suffered, without advance notice to the Defendant because there is a substantial likelihood of immediate danger of abuse. I understand that if the Court issues such a temporary Order, the Court will schedule a hearing within 10 court business days to determine whether such a temporary Order should be continued, and I must appear in Court on that day if I wish the Order to be continued.

PLAINTIFF'S SIGNATURE
 X

Please complete affidavit on reverse of this page

This is a request for a civil order to protect the Plaintiff from future abuse. The actions of the Defendant may also constitute a crime subject to criminal penalties. For information about filing a criminal complaint, you can talk with the District Attorney's Office for the location where the alleged abuse occurred.