

Supplemental Probate Court Rule 411 – Automatic Restraining Order

Once a complaint for divorce or separate support is initiated, both you and your spouse are subject to an “automatic restraining order” regarding assets, insurance, liability and residence of your children, if any, as outlined below:

(a) The following automatic restraining order shall apply to both parties to a complaint for divorce or separate support. This automatic restraining order shall be effective with regard to the plaintiff upon the signing of the complaint by the plaintiff or the plaintiff’s counsel and with regard to the defendant upon service of the summons and complaint or any other acceptance of service by the defendant.

After service of the complaint for divorce or separate support, on two (2) days’ notice to the other party or on such shorter notice as the court may prescribe, a party may appear without thereby submitting his person to the jurisdiction of the court, and move to modify or dissolve the automatic restraining order and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

The following restraining order shall remain in effect during the pendency of the action, unless it is modified by agreement of the parties or by further order of the court.

(1) Neither party shall sell, transfer, encumber, conceal, assign, remove or in any way dispose of any property, real or personal, belonging to or acquired by either party, except: (a) as required for reasonable expenses of living; (b) in the ordinary and usual course of business; (c) in the ordinary and usual course of investing; (d) for payment of reasonable attorney’s fees and costs in connection with the action; (e) written agreement of both parties; or (f) by order of the Court.

(2) Neither party shall incur any further debts that would burden the credit of the other party, including but not limited to, further borrowing against any credit line secured by the marital residence or unreasonably using credit cards or cash advances against credit or bank cards.

(3) Neither party shall directly or indirectly change the beneficiary of any life insurance policy, pension or retirement plan, or pension or retirement investment account, except with the written consent of the other party or by Order of the Court.

(4) Neither party shall directly or indirectly cause the other party or the minor child(ren) to be removed from coverage under an existing insurance policy, including medical, dental, life, automobile, and disability insurance. The parties shall maintain all insurance coverage in full force and effect.

(5) Neither party shall remove the minor child or children from the Commonwealth of Massachusetts, unless that party has the written consent of the other or by Order of the Court.

(b) The provisions of this automatic restraining order shall be issued over the signature of the Chief Justice of the Probate and Family Court Department and a copy thereof shall be served with every complaint to which it applies, except if personal service is not made as provided in Rule 4 and service is made by publication, said notice shall include a statement that an automatic restraining order has been issued pursuant to this rule. The provisions of this automatic restraining order need not be reprinted in said public notice.