

The criminal trespass statute in Massachusetts; how you can address trespassing on your property.

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There may be someone that you don't ever want to enter your property again. Or there may be someone you don't want to enter your property at all, even once. In Massachusetts, there is a way to make it a criminal act if a particular person enters your property.

Generally, the public is deemed to have an implied invitation to enter your property. They may walk in areas that would be regarded as usual places to approach the house located on a property. It is perfectly legal for a person to walk up to your front door on the walkway, or even the lawn, and knock on your door to ask you a question, take a survey, or for any lawful reason. (But, nowadays, some towns may have some limited restrictions on widespread door-to-door solicitation or the like.) There are a few ways in Massachusetts to make this activity a criminal act, or a criminal trespass. One is to post conspicuously placed No Trespass signs on your property. This may be effective, but is probably not the type of message you would like to project to the community at large. Most people don't mind the occasional door knocker, but seek to bar a select individual, or maybe a few, from even stepping foot on their property, let alone knock on their door. The other way is to impose the Massachusetts criminal trespass statute.

The criminal trespass statute in Massachusetts can be found in Mass. Gen. Laws ch. 266 § 120. Basically, to employ this statute, a resident, with "lawful control" of the premises, needs to notify the person or persons they wish to prohibit from entering. Oral notice appears to be allowed. But it is probably safer to provide notice in writing, and in a fashion to be able to prove someday that the notice was given. Once the notice is given, this law applies. The police can arrest the prohibited person without the issuance of a warrant. The penalties upon conviction are: 1) up to \$100.00; 2) up to 30 days in jail; or 3) both.

This law also covers the situation when someone is asked to leave the property, and the person refuses. For this there is no prior act you can take to strengthen your rights. But it is good to know in advance to employ later if a situation arises.

If you are the landlord, you may employ this provision as well. However, a tenant is deemed to have a limited easement in common areas, and can convey superior rights to the no trespass notice to their invited guests. Commonwealth v. Richardson, 313 Mass. 632, 697 (1943); Commonwealth v. Nelson, 74 Mass. App. Ct. 629 (2009). However, this is a brief blog written only for general information. There are exceptions to the law, and some legal complexities that are not covered here. (For example, the differences and application of civil trespass concepts). So, in the event you wish to employ the Massachusetts criminal trespass statute, or have had it employed against you and want to learn more, we encourage you to contact an attorney.

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