

RIGHTS REGARDING DEBT COLLECTION IN MASSACHUSETTS

**Prepared by the Mental Health Legal Advisors Committee
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If you are having credit problems, it is important to know what creditors and collection agencies may and may not do to collect debts.

What are creditors and collection agencies not allowed to do?

When dealing directly with you, creditors and collection agencies may not:

- Call you more than twice for each debt in each 7 day period at home, or more than twice for each debt in each 30 day period at someplace other than your home.
- Call you without identifying both the name of the creditor and of the person calling.
- Call you at times other than your normal waking hours.
- Visit your home at times other than your waking hours. A collector cannot visit more than once in any 30 day period for each debt, unless you give permission for additional visits.
- Cause you to be charged for long distance calls (or other similar costs).
- Call you at work if you requested that they not call. Your verbal request is good for only 10 days, unless you confirm it in writing within 7 days of making the request. Written requests are good until you write to the collector removing the restriction.
- Contact you directly, if you have told the creditor or collection agency only to contact your attorney.
- Falsely threaten to take legal action, or use profane or obscene language.

Additionally, creditors and collection agencies may not:

- Tell anyone (including friends, neighbors, relatives, or employers) about your debt.
- Send collection notices in a way that shows that you owe a debt (for example, using postcards or descriptive return addresses.)

Federal law provides even more protections against debt collection agencies. These laws apply only to debt collectors, *not* creditors. A debt collector is someone who is collecting the debt on behalf on your creditors, and can include lawyers who do this on a regular basis. For example, if you have a credit card with Bank of America, and you are called by a Bank of America representative, then that would be a creditor seeking to collect its own debt. The federal law does not apply. If you are contacted by someone from an agency, such as American Recovery Service, who is trying to collect your Bank of America debt, then that is an example of a debt collection agency seeking to collect a debt on behalf of your creditors. The federal law applies.

- Collectors must make sure you actually have the debt that your creditor says you do.

- Collectors must stop calling you if, within 30 days after you are first contacted, you send the agency a letter telling them that you do not owe the debt. They can only restart their collection activities if you are sent proof of the debt.
- You may stop a debt collector from contacting you by writing to the collector telling them to stop. Once the collection agency receives your letter, they may not contact you again except to say there will be no further contact. They also may contact you to inform you if they are going to take some specific action, such as suing you.

What Should I Do if I’m Being Harassed by Creditors?

Send the creditor/debt collectors a letter asking them to stop contacting you. If you have only judgment proof income, tell them that. Keep a copy of the letter. It is important to document any contact you have with creditors or debt collectors. You should keep a log of the date and times of any contact, the name (first and last) of the person who contacted you, and what was said. You must answer the calls or they don’t count toward harassing calls. When you speak to creditors or debt collectors, you can ask them to stop contacting you. If your income is judgment proof, you also should state this. Keep conversations brief. It is okay to say “I have nothing further to say. Good-bye,” and hang up.

If you think a creditor or debt collector is in violation of the state or federal laws described above, then you should contact an attorney or advocate to determine whether you have grounds for a lawsuit.

An Example of What The Log Look Like

Date of Call	Time of Call	Name of Caller	Agency	Creditor	What was Said
7/20/10	10:00am	John Doe	Bad Debt Collection Agency	My Bank USA	Wanted to me to repay debt, wanted me to agree to make payments. Told them my income was judgment proof and asked them not to call again.
7/22/10	2:00pm	Jane Doe	Bad Debt Collection Agency	My Bank USA	Wanted to make a payment agreement. Told them I had told guy the other day not to call.

For more information see: <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre18.shtm>.