



The Maine Coalition
to End Domestic Violence

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**Testimony of Andrea Mancuso
Speaking in support of L.D. 18:
“An Act to Ensure Proper Prosecution of Crimes Involving Domestic Violence
and Enhance Protection of Victims of Violence”
Before the Joint Standing Committee on Criminal Justice and Public Safety
Wednesday, March 6, 2019**

Senator Deschambault, Representative Warren, and members of the Joint Standing Committee on Criminal Justice and Public Safety:

My name is Andrea Mancuso. I live in Westbrook, Maine, and I am the Public Policy Director for and am testifying on behalf of the Maine Coalition to End Domestic Violence (MCEDV) in support of L.D. 18, “An Act to Ensure Proper Prosecution of Crimes Involving Domestic Violence and Enhance Protection of Victim of Violence.” First, I would like to thank Representative Reckitt and her co-sponsors, as well as this Committee, for their commitment to improving the safety of victims of domestic violence and to enhancing the state’s ability to hold perpetrators appropriately accountable.

The membership of MCEDV is comprised of eight regional domestic violence resource centers, as well as the Immigrant Resource Center of Maine. Collectively, those programs provided services to more than 14,000 survivors in Maine last year. This included providing legal services and advocacy to more than 3,100 survivors. One of the most frequent questions our lawyers and court advocates get asked in the context of protection from abuse orders is, “Are they worth it?” Even with all the work the state has done and is doing in this area, the answer to that question remains complicated. Protection from abuse orders do a lot of good. They create a legal framework that takes into account the pattern of coercive, controlling behaviors that the individual perpetrators of domestic abuse have demonstrated and used to intimidate, threaten and harm their partners and families. Protection from abuse orders instruct defendants to stop their abusive behavior and abide by a set of rules that apply to them because of their past conduct. Violation of the criminally enforceable provisions of the protection order¹ will result in a mandatory arrest and charges

¹ While testimony of the Maine Association of Criminal Defense Lawyers on March 31, 2017, speaking during the 128th session in opposition to LD 524, a functionally identical proposal to LD 18, implied that the “whole host of non-violent ways of being convicted of a violation of a protection order that could very well provide the basis for a new felony crime at a later time” includes “division of personal property, termination of life insurance policies,

for a Class D crime. In many circumstances, this is a powerful deterrent for abusers and gives survivors the frameworks for safety and security they need.

The only time we really hear about protection orders in the media is when tragedy occurs or when defendants violate protection orders but face none or insignificant consequences. Under current law, a defendant can be arrested and convicted of multiple PFA violations but face only misdemeanor consequences. Elsewhere in the criminal code, multiple domestic violence convictions result in an elevation of subsequent domestic violence criminal charges to Class C felony offenses. Multiple violations of protection orders should be treated in the same way.

A growing body of research within our state demonstrates the connectivity between domestic violence, specifically including protection order violations, to increased lethality. The recent “Report of the Attorney General’s Task Force to Review Deadly Force Incidents by Police,”² notes that more than half of the individuals involved in deadly force incidents had a history of domestic violence, and all but one of the individuals had a criminal history. It notes that one of the individuals had been arrested on multiple occasions for violating terms of bail and protection orders. Prior to involvement in the deadly force incident under review by the Task Force, this individual had committed a homicide. The Task Force recommended examining enhanced penalties for individuals who violate protection orders, and noted there should be strong consideration given to elevating repeated violations of a protection order to a felony level.

This tracks with data provided in the recent report from the Maine Domestic Abuse Homicide Review panel as well.³ Six perpetrators from the fifteen cases reviewed had prior criminal convictions and had been previously served with protection from abuse orders. In all three of the serious injury cases, the perpetrators were subject to protection from abuse orders at the time of the offense. The report specifically notes the danger of minimizing “non-threatening” violations of protection orders, and that a pattern of “low-level” violations “may in and of itself be an indication of manipulation and dangerousness, not dependent on whether the individual behaviors or violations were extreme or violent.”⁴

Similarly, many regions of the state have developed High Risk Response Teams, multi-disciplinary coordinated community response teams designed specifically to review those cases that pose the greatest lethality risk. Within those teams the cases involving violations of protection orders highlight the need for more serious consequences for

mandatory counseling and the like,” MCEDV would note for the Committee that it does not. All orders pertaining to division/possession of personal property and financial matters subject a defendant to civil contempt only, pursuant to 19-A M.R.S. § 4011(2).

² See “Report of the Attorney General’s Task Force to Review Deadly Force Incidents,” (1/28/2019) (available at: <https://www.maine.gov/ag/news/article.shtml?id=1033393>).

³ “Voices Against Violence: The 12th Biennial Report of the Maine Domestic Abuse Homicide Review Panel,” (10/2/2018) (available at: <https://www.maine.gov/ag/docs/DVHRP-FinalReport%2010.2.2018.pdf>).

⁴ See id, page 30.



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repeated violations. Until there are more serious consequences, perpetrators who do not see the protection order as a deterrent to their behavior will continue to feel entitled to demonstrate contempt for the criminal justice system and the civil and human rights of those they victimize.

Section 1 of LD 18 proposes an important clarification regarding the crime of aggravated assault. When the criminal statutes were changed to create domestic violence crimes alongside existing Class D crimes that were not committed in the context of domestic violence, aggravated assault should have been similarly changed to distinguish domestic violence aggravated assault from other aggravated assaults. This is particularly appropriate since Maine has incorporated recognition of the far too common use of strangulation by domestic violence offenders as manifesting extreme indifference to the value of human life, thereby elevating the charge of aggravated assault from a Class C to a Class B felony within the aggravated assault laws. These newly designated domestic violence aggravated assaults are the same class as their non-domestic violence variants. This does not involve the criminalization of new conduct, but it appropriately labels conduct that is already a crime.

Being able to distinguish domestic violence aggravated assault offenders will ensure that appropriate interventions and restrictions are in place for these offenders, including ensuring that the Department of Corrections can appropriately apply its policies around accrual of good time in domestic violence cases. Additionally, it will provide important clarity in our crime data reports to help the state recognize trends and the impact of efforts to increase both accountability for offenders and reduce overall domestic violence crime rates.

Both sections of this proposal work to enhance victim safety and increase perpetrator accountability. For these reasons we encourage you to support LD 18. Thank you for the opportunity to speak on this important legislation. MCEDV and our member programs are available to provide any information or assistance that might be valuable to the Committee as this process moves forward.