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Testimony of Rep. Kristen Cloutier in support of
LD 2085, An Act to Update Maine's Domestic Violence and Stalking Laws
Before the Joint Standing Committee on Judiciary

Good morning, Senator Carney, Representative Moonen and honorable members of the Joint Standing Committee on Judiciary. My name is Kristen Cloutier, and I represent House District 94, part of my hometown of Lewiston. I am pleased to cosponsor **LD 2085, An Act to Update Maine's Domestic Violence and Stalking Laws**.

This legislation fixes a specific problem we currently have with our criminal statutes that protect victims in our communities and hold their offenders accountable. After the United States Supreme Court decision in *Counterman v. Colorado*, law enforcement and prosecutors in my district had to tell some victims of stalking and terrorizing that the criminal justice system could not intervene at the time. Victims were told that they needed to obtain a protection from abuse order and only after the offender violated the order could the criminal justice system take action. In essence, telling victims to wait until their offender's actions escalate for law enforcement intervention to be possible.

In just Androscoggin County alone, 70 charges were filed in 2022 and 64 charges were filed in 2023 that had statutes negatively affected by the *Counterman* decision. There is a victim associated with all of those 134 criminal charges.

This month the Domestic Violence Homicide Review Panel¹ released its 14th biennial report.² In reviewing domestic violence related homicides in our state, they found that 22% of the offenders stalked their victim prior to committing homicide. The Domestic Violence Homicide Review Panel's reports over the last decade continue to find that stalking is a precursor to homicide. This pattern of behavior includes using social media and other forms of electronic communication to stalk their victim. The Panel's 14th biennial report recommended that law enforcement assigned to domestic violence follow-up "check social media outlets or other forms of digital technology in order to determine if . . . stalking is occurring." This recommendation comes in the vein of preventing further domestic violence related homicide. To comply with this recommendation, our stalking statutes need to conform to the precedent set in *Counterman* so our criminal justice system can properly intervene.

¹ 19-A M.R.S. § 4115(4)

² <https://www.mcedv.org/wp-content/uploads/2024/01/14th-DAHVP-Report-Final.pdf>

This bill balances an accused's First Amendment's right with the State's obligations to keep our communities safe.

All parties involved in the criminal justice system - the accused, victims, attorneys, judges and law enforcement - deserve clear and constitutional guidance on what constitutes criminal activity. This bill is drafted to limit any other collateral consequences other than to address the precise holding in *Counterman*. I am advocating for this bill as it enforces the laws we have enacted in the past and continues to strive for victim safety and offender accountability.

Thank you for your time and consideration.