



MAINE COMMISSION ON DOMESTIC AND SEXUAL ABUSE

Testimony of Donna Brown

Speaking Neither For Nor Against
LD 178, An Act to Support Reentry and Reintegration into the Community

Date of Public Hearing: March 13, 2023

Senator Beebe-Center, Representative Salisbury, and members of the Committee on Criminal Justice and Public Safety:

My name is Donna Brown. I am the Executive Director of the Wabanaki Women's Coalition and I am here today speaking on behalf of the Maine Commission on Domestic and Sexual Abuse ("the Abuse Commission").

The Abuse Commission is comprised of law enforcement, attorneys, advocates, survivors, tribal representatives, a judicial advisory member, and representatives from within state government.¹ The Commission is tasked with advising and assisting the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse.²

The Commission has not had adequate time to review this bill because the language was not timely published.

Because the language of this bill, whose concept draft title does not reference parole, was only recently amended and made public, the Abuse Commission has not had the opportunity to discuss or consider this bill. For these reasons, the Abuse Commission is testifying neither for nor against LD 178, but would like the committee to carefully consider several issues that impact survivors as you consider this proposal regarding parole in Maine.

The Abuse Commission joins in prioritizing the need for Maine to address racial equity issues, including within the population of incarcerated individuals. At the same time, the Abuse Commission recognizes that reestablishing parole will affect many survivors of domestic and sexual abuse as well as surviving family members of homicide victims. Because approximately half of all homicides in Maine are related to domestic violence, many of the incarcerated

¹ 19-A M.R.S. § 4115 (1)

² 19-A M.R.S. § 4115 (3)

people in Maine have killed an intimate partner or family member or committed serious crimes of domestic or sexual violence.

I am attaching to my written testimony the letter that the Abuse Commission submitted to the Parole Commission and would like to draw your attention to several key factors we ask this Committee to keep in mind as you consider this bill.

The Parole Commission's process did not adequately consider the victim's voice.

No appointed member of the Parole Commission represented the voices of victims and survivors. The proposed composition of the parole board in this bill similarly does not contemplate representation from a victim. Victims and their families often need certainty, information, and adequate time to prepare for the release of an incarcerated perpetrator. As the Abuse Commission discussed parole in Maine, a member stated, "As a survivor, I get no early release from trauma."

Current sentencing and good time laws provide some certainty for survivors.

Parole would not provide certainty around the length of incarceration. The Abuse Commission is concerned that survivors will be left in constant uncertainty and fear, with ongoing court events that will cause victims and/or their families who choose to participate in parole hearings to re-live the traumatic events over and over again. Effective communication to survivors throughout the hearing process should be prioritized, as well as a clear process and built-in safeguards for notification of the time of release.

Victims should be given the opportunity to participate in the parole process as they choose.

The Abuse Commission respectfully requests that any framework for parole in Maine ensures that survivors have easy and ongoing access to the status of any parole hearing, and that survivors are able to participate to the degree they wish.

Maine's infrastructure is insufficient to support successful reentry into the community.

The Abuse Commission believes both offenders and survivors would benefit from strengthening supportive services for incarcerated individuals, many of whom may themselves be survivors of trauma. Although some re-entry programs exist, more resources to support individuals who struggle with substance abuse, mental health, trauma, and those who have used violence in their intimate relationships or perpetrated sexual assault are necessary in order to adequately develop a framework for parole in Maine.

The metrics to evaluate eligibility for parole often fail to consider the underlying causes of domestic and sexual violence.

For example, the completion of an advanced degree does not address the root causes of domestic violence or sexual assault or reduce recidivism. The concept of conviction as the correct measure of recidivism fails to take into account the low levels of reporting for sexual violence crimes, as another example.

The language proposed raises many issues without time for the Abuse Commission, other organizations, or the public to adequately review and respond to LD 178.

There are many structural, legal and practical issues generated by the proposed language. The Abuse Commission would likely want to discuss the contrast between timing in the current supervised community confinement structure and the proposed parole structure, the lack of carve-outs or specific consideration for domestic violence and sexual assault crimes, and the impact of retroactive application when survivors have already had input into sentencing, and have an expectation as to the length of a sentence.

The proposal raises many questions that the Abuse Commission may want to address, including:

- How will this new process be communicated to victims and survivors, particularly those whose offender is currently incarcerated?
- What are the guidelines for the restorative justice projects? What is the oversight of these programs? What are the safeguards for victims within these programs?
- What does it mean that the proposed parole board may hear the testimony of a victim separately? How would the requirement for recording be dealt with if the victim wishes to speak but does not want to be recorded?
- Are hearings and the records of hearing public?
- How can the Legislature determine that the “actuarial risk” of offense should be the central factor in parole determination? Does the board have the expertise to select risk assessment tools and develop and validate risk assessment scales?

The Abuse Commission respectfully requests that this Committee carefully consider the issues highlighted in our letter to the Parole Commission when evaluating LD 178, including the safety of victims and the opportunity for their voices to be heard.



MAINE COMMISSION ON DOMESTIC AND SEXUAL ABUSE

The Maine Commission on Domestic and Sexual Abuse is comprised of law enforcement, attorneys, victim advocates, survivors, a judicial advisory member, and representatives from within state government. The Commission is tasked with advising and assisting the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse.

The Abuse Commission joins in prioritizing the conversation regarding the need for Maine to address racial equity issues and the array of crimes that appear to stem from the inability of persons to access adequate substance use and mental health treatment. Nevertheless, the Abuse Commission recognizes that reestablishing parole will affect many survivors of domestic and sexual abuse as well as surviving family members of homicide victims. As you take on the task of considering whether to re-institute parole in Maine, the Abuse Commission urges you to consider the following key factors to ensure survivors' voices are heard and their safety is valued and prioritized.

In the state of Maine, approximately half of all homicides each year are related to domestic violence. As a result, people who have killed an intimate partner or other family member, along with people who have committed egregious domestic or sexual assaults, are a large part of the population who are incarcerated and are among those who will benefit from reinstating parole. The Abuse Commission also recognizes that survivors of abuse are disproportionately represented among the incarcerated population.

Current sentencing and good time laws provide survivors some certainty in knowing the approximate total time of accountability for offenders. With the introduction of parole, we are concerned that no such approximation could be made, leaving survivors and their families in constant uncertainty and fear. Some assurances must be made to give survivors and family members time to prepare and safety plan for the release of the person who has done them harm.

In your work we urge you to consider how effective communication will be made to survivors throughout the parole hearing process and how your framework will address the unintended impacts on victims' rights. Survivors have the right to be heard, to be present, and to be notified of release or denial of release. Currently, the law requires that when requested, a victim shall be notified by mail of any impending release as soon as the release date is set. If someone is released the same day as a parole hearing, this notification will not be done in a timely manner, leaving survivors without adequate time to plan for their safety and seek additional protections, leading to increased risk and trauma for the survivor and their family.

The Abuse Commission respectfully requests that any framework for parole in Maine ensures that survivors have easy and ongoing access to the status of any parole hearing, and that survivors are able

to participate to the degree they wish. The Abuse Commission has concerns that between reviews and appeals the parole process would afford the survivor no reprieve from reliving the horrific events that happened to them all over again. Survivors who want to address the parole board must take more time off from their life, healing, and recovery in hopes that their participation will keep the offender away for a bit longer. As traumatizing as the parole hearing may be, not having the choice to testify or be notified could be equally as traumatizing and raise significant safety concerns for survivors.

The Abuse Commission observes that there may be insufficient infrastructure across the state to support successful reentry into the community and believes that both offender and survivor would benefit from the development of additional resources, including treatment or counseling for incarcerated individuals who may themselves have been victims of trauma. The Abuse Commission believes that these structural and process-based questions are just as important to consider as the philosophical questions when developing the framework for parole in Maine. In addition, the Abuse Commission is concerned that the metrics to evaluate eligibility for parole, such as gaining an advanced degree or factors that contribute to "good time," are unlikely to address the root causes of domestic and sexual abuse or reduce recidivism. Even the concept of conviction as the correct measure of recidivism fails to take into account the low levels of reporting for sexual assault crimes, as one example.

The Abuse Commission recommends the use of evidenced-based actuarial risk assessment tools to assist decision regarding release to reduce subjectivity and bias. Equity considerations throughout the parole process should also be incorporated to safeguard against bias of indigenous people, people of color, and women. Significant thought should be given to what classes or types of crimes might be eligible for parole, and how such a process would be implemented alongside or in lieu of supervised community confinement.

The Abuse Commission observes that currently there is no appointed member of the Parole Commission representing the voices of victims and survivors. As the Parole Commission moves forward in creating a framework for parole in Maine, we urge you to take time to consider ways to incorporate Maine survivors' voices into your process, including the wide variety of Maine victims' experiences and case specific considerations, as well as ways to make this process as supportive and transparent for survivors of domestic and sexual violence as possible. As one survivor stated during the Abuse Commissions discussion on parole in Maine, "As a survivor, I get no early release from trauma." We support a deeper look into supportive reentry services for incarcerated individuals, while also acknowledging the need to provide victims of crime with certainty, information, and adequate time to prepare for the release of an incarcerated individual.