MCEDV.
The Maine Coalition
to End Domestic Violence

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Testimony of Andrea Mancuso, on behalf of the Maine Coalition to End Domestic Violence In Support of LD 692: "An Act Regarding Eligibility of County Jail Inmates for a Community Confinement Monitoring Program."
Before the Joint Standing Committee on Criminal Justice and Public Safety
Monday, April 10, 2023

Senator Beebe-Center, Representative Salisbury, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, I am writing on behalf of the Maine Coalition to End Domestic Violence (MCEDV)[1] in support of LD 692, "An Act Regarding Eligibility of County Jail Inmates for a Community Confinement Monitoring Program."

When a person who has used domestic abuse and violence against their intimate partner is sentenced to serve a period of time in one of Maine's correctional facilities, it is rare that the incident was that person's first offense or even the first time the criminal legal system attempted to intervene. More often than not, these residents have had the benefit of some sort of deferred disposition or diversion opportunity on a prior offense and have either continued to abuse their victim or have moved on to abuse a new victim. With that understanding, the county jails should be giving careful consideration to any application for the community confinement monitoring program when the applicant is incarcerated as a result of domestic abuse and violence. The process outlined in LD 692 will require the county jails to collect and consider important information to help ensure the decisions they make in response to applications for this program are informed with respect to how early release would impact victim and community safety.

LD 692 would require a county jail administrator, before granting an application for the community confinement monitoring program for anyone who is incarcerated for a crime against a family or household member, to do the following:

- Review the applicant's criminal history to identify any pattern of behavior that may indicate the person poses a risk to the safety of others in the community if released early.
- Review the results of any available validated, evidence based risk assessment tool. In Maine, that would most often be the Ontario Domestic Assault Risk Assessment –

[1] MCEDV represents a membership of the eight regional domestic violence resource centers across Maine as well as the Immigrant Resource Center of Maine. Last year, our programs provided services to more than 12,000 survivors of domestic abuse and violence and their children in our state.

often referred to as ODARA – that is completed by law enforcement on-scene, after an arrest determination has been made.

- Make a good faith effort to be in contact with the victim to provide an opportunity for them to express concerns or considerations related to a resident's early release and have those issues taken into account in the decision-making process and any subsequent release conditions.
- Provide notice to the district attorney's office that prosecuted the underlying case to allow the DA's office to provide any additional insight.

To be clear, there are people sentenced to our county jails for domestic violence crimes that are appropriate for this community confinement monitoring program. There are crime victims who would welcome their offender's early release from the jail. For domestic violence victims, that is particularly true for those whose economic circumstances are intrinsically connected to the person who has harmed them, and those with children in common. There are also defendants that are not at all appropriate for the early release, and there are crime victims who would be vehemently opposed to the offender's release under this program. The process outlined in LD 692 would merely ensure the county jail administrators have all the information that should be considered as they make that decision and obligate the jails to provide timely notice to victims concerning that decision.

Timely victim notification about corrections decisions that will result in early or unexpected release of the person who has caused harm back into the community is an incredibly important component of our communities' responsibilities to crime victims. This is not only because it allows the crime victim to take any steps necessary to address safety concerns, but also because the release of the person who has caused harm back into the community can be retraumatizing for crime victims, and timely notification can help them get the support they need to address that trauma as well as safety planning to avoid additional harm being done. Sadly, our laws concerning post-sentencing release notifications currently direct the county jails to notify a victim by mail that a release decision has been made no later than the date that the decision is made, without any additional requirements around timeframe. See 17-A M.R.S. § 2106(2). To illustrate the ineffectiveness of the current notification directive, if a decision is made by the county jail on Monday to release a resident into this program on Tuesday, what is required under current law is for the jail to mail a letter to the victim on Monday. This could result in the victim not knowing the person who harmed them had been released early until they saw that person in the community. That this is permitted under current law is a disservice to crime victims.

MCEDV would note that the current *pre-trial release* notification requirement is equally dangerous; it is not trauma informed or responsive to the real-life safety concerns of victims and their need for timely information about the status of the person who has harmed them. Under current law, in the case of an alleged crime involving domestic violence, sexual assault or stalking **the jail has up to one hour <u>after</u> the defendant has been released from the facility to notify the victim** of that defendant's release. 17-A M.R.S. § 2107(2). As legislators continue to hear from victim services providers and victims

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themselves on various legislative proposals that the state has utterly failed over the years to properly attend to the needs of crime victims time and time again, these pre-conviction and post-sentencing notification requirements are two prime examples of where victim rights in Maine, in practice, are functionally in name only. These anemic victim notification requirements are entirely reflective of the fact that policymakers and appropriators have never prioritized funding the county jails to meaningfully carry out victim notification obligations.

LD 692 does not eliminate eligibility for anyone to be considered for or granted early release into the community confinement monitoring program. It merely puts a belt and suspenders around the decision-making process to ensure that the decisions made about which residents are likely to not pose a risk to their victims or the broader community are appropriately informed. If the county jails are going to release residents who have committed domestic violence crimes, they have a responsibility to victims and to the communities they serve to ensure they're engaging with all the information available to them.

Thank you for the opportunity to be heard on this proposal. MCEDV and our member programs are happy to serve as a resource to this Committee as you continue to discuss these important issues.

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