

# STATE OF MAINE

**KATHRYN SLATTERY**  
DISTRICT I

**JACQUELINE SARTORIS**  
DISTRICT II

**NEIL MCLEAN**  
DISTRICT III

**MAEGHAN MALONEY**  
DISTRICT IV



**R. CHRISTOPHER ALMY**  
DISTRICT V

**NATASHA IRVING**  
DISTRICT VI

**ROBERT GRANGER**  
DISTRICT VII

**TODD R. COLLINS**  
DISTRICT VIII

## **MAINE PROSECUTORS ASSOCIATION** **SHIRA BURNS, EXECUTIVE DIRECTOR**

**“An Act to Amend the Laws Regarding Violations of Condition of Release”**  
**Before the Joint Standing Committee on Judiciary**

Public Hearing Date: April 10, 2023  
Testimony in Opposition of LD 1449

Senator Carney, Representative Moonen and members of the Joint Standing Committee on Judiciary. My name is Shira Burns and I represent the Maine Prosecutors Association. I am testifying in opposition of LD 1449.

Enacting this legislation directly attacks the heart of holding domestic violence offenders accountable and providing victim safety through the criminal justice system. Currently, you can only be charged with a Class C Violation of Condition of Release (VCR) if you are on bail for a felony-level crime and you violate one of the following conditions:

1. Avoid all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;
2. Refrain from possessing a firearm or other dangerous weapon;
3. Enter and remain in a long-term residential facility for the treatment of substance use disorder; and
4. Return to custody for specified hours following release for employment, schooling or other limited purposes.

Looking at the statistics on the use of this charge, by far the most common reason a person is charged with Class C Violation of Conditions of Release is because a domestic violence offender contacted his victim after specifically being told by a judicial officer not to do so and that it would be a felony-level crime if he does contact his victim. This contact contributes to the ongoing power and control an offender exhibits over his victim. By reducing this conduct to a Class E crime, with the maximum sentence of 6 months, it minimizes the actions taken by a domestic violence offender that chooses to continue to use power and control tactics even when the criminal justice system has intervened. Furthermore, judges are giving sentences above 6 months for this conduct, showing the need for higher level crime.

This bill reduces the class of crime for a person possessing a firearm when specifically ordered not to through conditions of release while released on felony-level bail. Again, this applies directly to our domestic violence crimes. About half of our homicides each year are domestic violence related and most of them are committed with a firearm. An abusive partner's access to a firearm is a serious threat to victims of domestic violence, making it five times more likely that a woman will be

killed.<sup>1</sup> This bill goes on to reduce the class of crime for possession of a firearm when prohibited through conditions of release when a firearm was used in the crime. For example, a defendant may have been arrested for robbery with the use of a firearm and released on specific conditions not to use or possess a firearm, but now could only be charged with a Class E offense if found in possession of a firearm in violation of his conditions of release.

Section 2 through 6 of this bill only affects domestic violence crimes and how they can be elevated to a Class C crime. Our current statute allows a domestic violence crime be elevated to a Class C if the offender has previously been convicted in the last ten years for a domestic violence crime, violation of protection from abuse order, or for a felony violation of condition of release for specially contacting the victim or for possession a dangerous weapon or firearm when the victim of the crime was a family or household member. This bill seeks to repeal the section where a domestic violence crime can be elevated to a Class C crime with a prior conviction in the last ten years of a Class C VCR for contacting the victim or possession a dangerous weapon or firearm when the victim of the crime was a family or household member. Repealing this section would be inconsistent with having a violation of protection order as a basis to enhance the crime since they would be based on similar, if not the same, conduct by the offender. The conviction of a felony-level VCR for contacting a victim of a crime that is a family or household member or possession of a dangerous weapon or firearm is an entirely appropriate conviction to enhance a subsequent domestic violence crime. It shows the ongoing pattern of abuse, physical or not, that these offenders choose to engage in.

Domestic violence is a serious public health problem.<sup>2</sup> Repealing laws that can actually hold a domestic violence offender accountable for their own choices is bad public policy and even worse public safety.

For these reasons, the Maine Prosecutors Association is in opposition of LD 1449.

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<sup>1</sup>J.C. Campbell, et al., "Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study," *American Journal of Public Health* 93, no.7 (2003): 1089-1097.

<sup>2</sup> [www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html](http://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html)