
**Testimony of Andrea Mancuso, on behalf of the Maine Coalition to End Domestic Violence
Neither for Nor Against LD 1449: "An Act to Amend the Laws Regarding Violations of
Conditions of Release."**

**Before the Joint Standing Committee on Judiciary
Monday, April 10, 2023**

Senator Carney, Representative Moonen, and members of the Joint Standing Committee on Judiciary, I am writing on behalf of the Maine Coalition to End Domestic Violence (MCEDV)¹ in response to LD 1449, "An Act to Amend the Laws Regarding Violations of Conditions of Release."

To be charged with a domestic violence related crime that is a Class C or higher, a person must have either caused serious harm to their victim or have been convicted previously of a Class D crime of domestic violence or violation of a protection order. Either way this is typically reflective of a pattern of abuse. We would also note that strangulation, a known indicator of heightened risk for lethality, would be charged as a felony assault. These cases are particularly concerning, since non-fatal strangulation is frequently a precursor to domestic violence homicide (HRP 13th report, p. 18).

After being charged with the felony crime, for which they could be facing up to 5 or 10 years of incarceration, conditions of release are imposed on the defendant. In domestic violence cases, the conditions almost always will include a prohibition on the defendant having any contact with the victim. This is one of the primary ways our criminal legal system response attempts to create safety and space for survivors to start healing. When a defendant, charged with a felony domestic violence crime and prohibited through a court order from having contact with their victim, then goes on to have contact with that victim in violation of that court order, under current law, they are charged with the Class C crime of violation of conditions of release.

If you think about what that looks like from the perspective of the victim: they have reported either a serious assault or a continued pattern of abuse; they have gone through a law enforcement interview, sometimes even writing out and signing a sworn statement; and

¹ MCEDV serves a membership of eight regional domestic violence resource centers as well as the Immigrant Resource Center of Maine. Our member programs provided services to more than 12,000 victims of domestic violence in Maine last year, which included providing emergency shelter to more than 250 children.

sometimes this will involve having photos taken of their body and/or a hospital visit. They have spoken to a victim witness advocate, likely had a subsequent interview with an assistant district attorney and may even have had to testify in front of a grand jury. They have been told that a court has ordered the person who has harmed them not to have any contact with them. They may have even started to feel some distance from the trauma, beginning a process of healing. Then the person who harmed them, who has been court ordered to stay away, contacts them – sometimes from within the correctional facility they are being held at pre-trial. Even if there are no overt threats made to them during that contact, what does that say to a victim about the State's ability to protect them and make the abuse stop? What level of trust should the victim now place in the criminal legal system – the system asking them to continue to participate in the prosecution of the person who has harmed them? What reason would they have to believe that the State will be able to keep them safe from further harm?

To this type of violation, a violation of a clear and unambiguous court order, there should be swift and sure consequences – particularly for those individuals who perpetrate domestic violence, most of whom believe they are privileged to do so, and that the price of any consequence for their behavior will not be more than they are willing to pay. Yet, just by virtue of what has happened, a victim is going to have greater trepidation at the idea of cooperating with prosecution, questioning whether or not the system can make a difference in their lives and whether that impact will be positive or not.

In response to a request from MCEDV last week, the Maine Prosecutors Association provided the following data indicating how Class C Violations of Conditions of Release have been charged in the last several years, which suggests that between 58-69% of all felony VCRs that were charged over the last three calendar years were in response to a defendant having prohibited contact with their victim.

	2020	2021	2022
Total Class C VCRs Charged	620	513	344
Violation was contact w/ a victim	450	318	248
Violation was other than contact w/ a victim	170	195	96
% of Class C VCRs for victim contact violation	69%	58%	68%



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It is our understanding that the data cannot be further distilled to determine the frequency of the other three types of violations that serve as a basis for the Class C violations of conditions of release charge, including prohibited possession of a firearm.² There are certainly choices can be made about which types of violations indicate a heightened public safety risk and warrant a heightened response. We would submit to you that a person, charged with felony domestic violence, who then goes on to have prohibited contact with their victim or retains possession of a deadly weapon in clear violation of the court's order are two types of violation worthy of deep consideration prior to modification.

As always, thank you for the opportunity to share our perspective. MCEDV and our member programs look forward to continuing to engage with legislators and other interested parties on these important issues.

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² Advancement of good public policy requires good data. At present, the State cannot pull together aggregate data from the point of arrest through sentence completion. Maine continues to struggle to understand the practical impact of various criminal legal system policy choices because the state has failed to prioritize the collection and reporting of reliable data.