



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
OPPOSED to LD 1550:
“An Act to Authorize the Expungement of Records of Nonviolent Crimes”
Before the Joint Standing Committee on Judiciary
Thursday, April 27, 2023**

Senator Carney, Representative Moonen, and distinguished members of the Joint Standing Committee on Judiciary, my name is Andrea Mancuso, and I am writing on behalf of the Maine Coalition to End Domestic Violence (MCEDV)¹ to provide our perspective on LD 1897, “An Act to Authorize the Expungement of Records of Nonviolent Crimes.”

We appreciate the desire for changes to the criminal legal system in our state and have welcomed being included in these important conversations. As our leaders contemplate what actions should be taken to limit the collateral consequences of criminal convictions, careful thought must be given both to unintended consequences and the criminal legal system’s accountability to victims of crime. Conversations convened by through various commissions and working groups over the last several years have highlighted that attempting to categorize which crimes we are most concerned about and which we are not, as well as what processes should be utilized to give convicted individuals some form of relief from collateral consequences is complex and does not readily lend itself to simple solutions.

For example, and relevant to the proposal in LD 1550, attempting to draw a line between “violent” and “non-violent” crimes risks missing at least two crimes that we believe the state should consider very carefully before eliminating records: stalking and violation of a protection from abuse order. Research has long borne out that these two courses of conduct – though not having violence as an element of the crime themselves – are associated with higher risk of lethal violence. In its 12th Biennial Report, Maine’s own Domestic Abuse Homicide Review Panel (the Panel) observed stalking present in 8 of the 15 homicides reviewed by the Panel and noted stalking behaviors preceded the homicide in 80% of the intimate partner cases reviewed.² The Panel further observed that “‘low level’

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 abuse and violence in Maine last year, including court advocacy services in the civil and criminal courts to more than 5,000.

² See “Voices Against Violence: The 12th Biennial Report of the Maine Domestic Abuse Homicide Review Panel,” (2018)

violations of Protection From Abuse Orders may in and of itself be an indication of manipulation and dangerousness, not dependent on whether the individual behaviors or violations were extreme or violent.”³

The exemptions proposed by LD 1550 do attempt to acknowledge the need to treat domestic violence crimes differently, and this is a concept we would urge the Committee to support generally. However, it is unclear from the proposed bill if the intention is to capture all crimes against a family or household member or dating partner, or if the intention is to more narrowly define “domestic violence” as the Maine Criminal Code defines “crime involving domestic violence” - referring to convictions for those crimes specifically enumerated as “domestic violence” in Title 17-A (domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct) and a violation of a protection from abuse order under Title 19-A, section 4113.⁴ Relying on either of those exclusively raises concerns. Our criminal justice system data demonstrates that, frequently, perpetrators are entering into plea bargains that drop the domestic violence prefix, particularly as it relates to these crimes. Thus, looking only to the title of the crime, as opposed to the underlying relationship between the perpetrator and victim, risks further incentivizing perpetrators to avoid convictions for the crimes that are denoted as domestic violence crimes in order to avoid this exemption for expungement. If the Committee were to define domestic violence as a crime against a family or household member or dating partner, looking only at the underlying relationship of the victim, it may want to consider that Violation of a Protection Order is technically considered a crime against the public order, and not a crime against the person the order purports to protect, as are a number of other crimes.

Constitutionality issues aside, expungement, as opposed to sealing, also makes it functionally impossible for a crime victim to later obtain the relevant documents concerning the crime; documents that may be helpful to supporting future litigation either in family court or in other civil actions. Our laws allow for civil suits for damages to be brought within six years of the cause of action commencing. This consequence of not being later able to obtain what might be useful documentation is particularly impactful in this proposal, as there is no mention of whether or not a crime victim has a right to be notified of the convicted person’s petition for expungement. If crime victims are to be notified, who is responsible for providing that notification? MCEDV also notes for the Committee that while organizations representing victims of domestic violence and sexual assault have resourced themselves to be able to ensure the voices of those we serve are represented in policy discussions, crime victims writ large are not; that does not make consideration of them any less worthy.

More broadly, we ask you to consider that the effects of crime on the person who has been harmed can last for decades – financially, emotionally, and sometimes physically.

³ *Id.* at page 28.

⁴ 15 M.R.S. § 1003(3-A).



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Expungement erases that harm for the harm doer, as if the harm never happened. It does not do that for crime victims. There are other ways to decrease the economic and social collateral consequences of criminal convictions for those who have been convicted – like sealing records from the public and ban the box policies – that do not so universally invalidate the experiences of crime victims.

This Committee is also considering LD 1662, “Resolve, To Reestablish the Criminal Records Review Committee.” The work of that group of interested parties over the last several years resulted in the enactment of a record sealing statute in the 130th Legislature. The Committee has broad representation to think through all of these issues and many others over time. MCEDV would suggest to the Committee that is an appropriate method for considering all proposals that seek to accomplish addressing the long-term collateral consequences of criminal records than attempting to address these proposals piecemeal.

As always, thank you for the opportunity to share our perspective with you. MCEDV and our member programs are available to support the Committee’s work on this proposal in whatever way might be helpful.

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