



The Maine Coalition
to End Domestic Violence

101 Western Ave.
P.O. Box 5188
Augusta, ME 04332-5188
207.430.8334

**Testimony of Andrea Mancuso, on behalf of the Maine Coalition to End Domestic Violence
In SUPPORT of LD 2103: “An Act to Protect Victims of Domestic Abuse and Violence by
Amending the Law Regarding Proximity Restrictions in Final Protection from Abuse
Orders”**

**Before the Joint Standing Committee on Judiciary
Wednesday, January 24, 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 support of LD 2103.

Though the inspiration for LD 2103 was one person’s experience with a protection from abuse order that didn’t work to curb abusive behaviors, it may be important for this Committee to know that victims all across the state every year ask about the possibility for some sort of proximity restrictions as part of their protection order or for orders that will restrict a defendant from being at certain places that they frequent regularly. Technically, the current relief available in the protection order statute is broad enough for a court to order either of these things. However, there are two common issues with achieving either of these things under the current structure of relief.

The first challenge is that getting the right order from the court will, as a practical matter, take an attorney who has a particular level of expertise with this statute to present such a request in a proposed order and make an appropriate argument for the court’s authority to include it. Most people who go through the protection from abuse process, both plaintiffs and defendants, do so without the benefit of legal representation.

The second challenge is that, if a judicial officer grants such a request using the catch-all provision set out in subparagraph U, “entering any other orders determined necessary or appropriate in the discretion of the court,” it becomes a provision of the order that is not enforceable by law enforcement, and so it doesn’t have the same deterrent effect.

¹ MCEDV serves a membership of eight regional domestic violence resource centers as well two programs providing culturally specific services. Last year, our member programs provided services to more than 12,000 victims of domestic violence in Maine, including court advocacy services for survivors in the civil and criminal courts across Maine.

As a practical matter, modifying the statute as proposed to explicitly include restrictions on proximity and particular locations that a defendant must stay away from will lead to a change in the forms used by the Judicial Branch throughout the protection from abuse process, including: the complaint, the order granting temporary relief, and the final protection from abuse order form. Such a form change will underscore for judicial officers the ability to consider these restrictions in the cases that come before them, and it will allow for the plaintiff, the defendant, and law enforcement who may be called upon to enforce the order, to have clearer notice of what the court's orders are with respect to proximity and/or location restrictions.

The proposal in front of you purposely leaves the particular distance that a court might order a defendant to not knowingly breach up to the judge in each particular case. In some cases, a significant distance might be appropriate. In others, there may be known factors that would highlight a need to be more circumspect around what is reasonable. For example, in a case where a pressing concern for the plaintiff is that her home is in the direct line of sight of a public parking lot 60 yards away from her driveway and the defendant has a habit of parking his car there for hours on end monitoring who is coming and going from her home, an order that the defendant not knowingly come within 100 yards of the plaintiff might be exactly what is needed to provide that plaintiff with some relief. In a case where the parties work within the same business complex, a distance restriction of 50 feet may be more reasonable to consider.

In considering modifications to the protection from abuse statute, policymakers must necessarily engage in balancing a raft of considerations, among these are: the purposes of the statute, that violation of certain provisions can lead to arrest and prosecution, the need for judicial officers to be able to exercise an appropriate level of discretion to meet the particular needs of the case in front of them. LD 2103 strikes the right balance.

As always, thank you for the opportunity to share our perspective.

Contact Information:

Andrea Mancuso, Esq.
Public Policy Director
Maine Coalition to End Domestic Violence (MCEDV)
Ph: (207) 430-8334, Email: andrea@mcedv.org