



The Maine Coalition
to End Domestic Violence

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**Testimony of Francine Stark, on behalf of the Maine Coalition to End Domestic Violence
In SUPPORT of LD 458: "An Act Regarding the Domestic Violence Advocate Privilege"**

Before the Joint Standing Committee on Judiciary, Friday, April 4, 2025

Senator Carney, Representative Kuhn, 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 458.

Senator Carney's amendment to LD 458 asks the Maine Legislature to align the structure of the domestic violence advocate privilege statute (Title 16, section 53-B) with that of the sexual assault advocate privilege statute (Title 16, section 53-A) to better account for the nature of the workload of the staff at Maine's domestic violence service providers, which has shifted in recent years, such that the statute no longer carries out its intention.

These statutes were created many years ago, when domestic violence programs were smaller and all staff had, as a primary function with the program, responsibilities for providing direct services to victims. As community intervention for domestic violence has grown, and awareness in the community of the services available at Maine's regional domestic violence resource centers (DVRCs) with it, agency staffs are larger than they were in the early 1990's, and much of the workload is divided into more specialized buckets. For example, some staff at the DVRCs might have, as the majority of their focus, administrative work, or youth and community education schedules. Direct service with and for victims would represent a *minority* of their work. Yet, every staff member and volunteer working with Maine's DVRCs, regardless of primary job function, receives 40 hours of foundational training that is needed to ensure they can provide trauma informed, valuable services to victims in crisis. And all staff and volunteers, regardless of their primary function, have the capacity to, and do, answer the 24/7 helpline.

This gap in our statute, and the difference between the domestic violence advocate privilege and the sexual assault advocate privilege, was highlighted in a recent legal proceeding. It became evident that how to interpret the language in 53-B(1)(A)(2), "as a primary function with the program gives advice to, counsels or assists victims ...", is not

¹ MCEDV serves a membership of eight regional domestic violence resource centers as well two culturally specific service providers. Together, these programs provided services to more than 12,000 victims of domestic violence in Maine last year, including court advocacy services in the civil and criminal courts.

clear. Maine's domestic violence services providers have interpreted "a primary function" to be satisfied if working with survivors is an expected, anticipated part of the staff member's or volunteer's job. The Board of Bar Overseers has recently interpreted "a primary function" to mean essentially mean if that's what the person spends most of their time doing. Staff, volunteers, community partners and survivors across Maine are best served by there being no ambiguity. Aligning the structure of DV advocate statute with the structure of the SA advocate structure is a simple way to address this issue; this approach through the SA advocate statute is one that has proven to be effective in Maine for many years.

All staff and volunteers of domestic violence services providers are required by federal law to keep information confidential. These federal laws include the Violence Against Women Act, the Victims of Crime Act, and the Family Violence Prevention and Services Act. This is required regardless of primary job function. Maine's sexual assault advocate privilege is structured to respond to that reality, to extend privilege to any staff member or volunteer, so long as that person has completed baseline training. Maine's domestic violence advocate privilege needs to be brought into the 21st century to have a similar structure. The differentiation in our current state statute based on primary job function does not modify our obligation under federal law – advocates must keep information confidential unless ordered by a court or statute to release, regardless of primary job function. There is no practical reason to retain this differentiation, but failing to modify it, given the newly identified ambiguity, can be predicted to cause unnecessary barriers to survivors in getting the response and services they need.

MCEDV and our member programs ask you to support Senator Carney's amendment as presented.

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