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**Testimony of Andrea Mancuso**  
**Neither for Nor Against LD 419:**  
**“An Act Regarding Participation in Public Works Projects by Pretrial Inmates”**  
**Before the Joint Standing Committee on Criminal Justice and Public Safety**  
**Wednesday, February 24, 2021**

Senator Deschambault, Representative Warren, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, I am writing on behalf of the Maine Coalition to End Domestic Violence (MCEDV)<sup>1</sup> neither for nor against LD 419, “An Act Regarding Participation in Public Works Projects by Pretrial Inmates” to raise several issues that we believe should be part of your deliberations as you consider this proposal.

While acknowledging that many defendants being held pre-trial in our county jails are there as a result of being poor or poorly represented, in those cases involving domestic abuse and violence this pre-trial population more often includes those who have been assessed as dangerous to the community or to their victim. This includes defendants charged with having violated a protection from abuse order or a condition of their release to have no contact with their victim after having assaulted the victim in the first instance. It includes those defendants charged with aggravated assaults. It includes those defendants who have previously been charged and convicted of misdemeanor domestic violence who have reoffended. And it includes those defendants who have been assessed as having an increased likelihood of future violence through the Ontario Domestic Assault Risk Assessment (ODARA). Title 30-A, Section 1606 provides no definition of “certain inmates,” and thus provides no statutory criteria for which classes of defendants being held pre-trial would be eligible for release. This lack of criteria is concerning if the statute were to expand to apply to pre-trial inmates given the existence in the population of pre-trial inmates those who are there as a result of having been identified as dangerous to the community or their victim. In our experience, the county jail administrators and staff have insufficient resources to meaningfully and appropriately engage in individualized risk assessment.

One of the greatest utilities of our criminal justice system for survivors of domestic abuse and violence is its ability to create a safe space in the immediate aftermath of the crisis. The time when a defendant is held pre-trial after having committed domestic violence

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<sup>1</sup> MCEDV represents a membership of the eight regional domestic violence resource centers across Maine as well as the Immigrant Resource Center of Maine. Last year, our programs provided services to more than 12,000 survivors of domestic abuse and violence and their children in our state.

will frequently be the *only* time that defendant is incarcerated. For many survivors, it is the window of time in which they have actual, tangible safety – freedom from ongoing threat, room to breathe, peace of mind - and can better achieve success around critical components of their safety plan to ensure that they and their children are in a better, safer place when the defendant is eventually released back into the community.

We note that the public works release program outlined under Title 30-A, Section 1606, subsection 1 does not require victim notification. In sending a defendant out into the community<sup>2</sup> under this program, the county jail is not required to notify the victim of the intended location of a defendant or even the fact that a defendant will be participating in this program. This type of public works release, now only being applied to post-sentenced individuals, has already had trauma repercussions for survivors who have unexpectedly encountered the person who abused them in their community serving on a public works project. To significantly increase the population of incarcerated individuals who could suddenly pop-up in community spaces without notification to those they have victimized, particularly in the context of pre-trial incarceration (which would mean exposure much closer in time to the incident for which the individual is incarcerated than those on such releases post-conviction) risks leaving survivors re-traumatized and further mistrusting of the ability of the criminal justice system to contribute and attend to their safety.

In highlighting this gap that exists in victim notification around release of inmates for public works projects, it is important to also note that the county jails have long been insufficiently resourced for victim notification. The county jails cannot currently provide timely and effective release notification to many victims of domestic abuse and violence as required under current law. It would be unrealistic to expect that they could take on an additional mandate to provide notification to victims of pre-trial detainees being released on a public works project without additional resources. And yet, victim notification should be an essential component of any release of a pre-trial defendant into the community, even under supervision of county jail staff.

Work release programs also implicate “good time” calculations. Participation by pre-trial defendants in work release programs would accelerate release dates for those defendants that are then sentenced to a jail term. While taking no position on whether or not accumulation of “good-time” for defendants charged with domestic violence is good public policy, it is important for all concerned that there be complete clarity and transparency at the time of sentencing to the court, to the convicted person, and to the victim with respect to how much “good-time” a pre-trial defendant may have already accumulated by the date of sentencing and therefore what the practical timeframe is to expect the defendant to be released back into the community.

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<sup>2</sup> To the extent that the original intent of this proposal was to enable the county jails to allow low-risk pre-trial detainees to act in positions of trusts *within* the jails, a more appropriate statute to amend is Title 30-A, Section 1551, which currently provides that a sheriff may grant positions of trust only to a prisoner confined in a jail who has already been sentenced to serve a term.

To the extent that the Maine Legislature sanctions the ability of defendants being held pre-trial in our county jails to participate in public works projects in the community, we hope that you will only do so after having addressed these concerns and adequately resourced the solutions. Thank you for giving us this opportunity to be heard on LD 419. MCEDV and our member programs are happy to be a resource to the Committee as you continue to discuss these issues.

**Contact Information:**

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