

Testimony of Lucia Chomeau Hunt, Esq.
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IN SUPPORT OF LD 679,
An Act to Prohibit the Unauthorized Distribution of Certain Private Images

Senator Rosen, Representative Fowle, Members of the Joint Standing Committee on Criminal Justice:

My name is Lucia Chomeau Hunt, and I am an attorney at Pine Tree Legal Assistance. I am here today in support of LD 679, *An Act to Prohibit the Unauthorized Distribution of Certain Private Images*. I appreciate the opportunity to speak to you in support of this bill.

I have been asked to share the expertise of Pine Tree Legal Assistance on these issues and I am speaking today on behalf of Pine Tree Legal Assistance. Since 1967 Pine Tree has provided free legal services to low-income people throughout the State of Maine. Pine Tree has had a dedicated attorney working on issues of domestic violence since 1978. I have been working on these issues as an attorney for nine years.

At Pine Tree, we see a high volume of domestic violence and sexual assault cases, which allows us to identify trends and highlight systems issues. In 2014, Pine Tree Legal Assistance provided legal services to Maine families and individuals in over 11,000 cases, of which 488 were Protection from Abuse or Protection from Harassment cases on behalf of victims of domestic and sexual violence. In the last 5 years, Pine Tree has assisted 2294 victims of domestic violence and sexual assault with Protection from Abuse and Harassment cases.

As an attorney who represents victims of domestic violence and sexual assault in protection orders and family matters, I strongly support the criminalization of unauthorized distribution of images, or “revenge porn.” Over the past few years, my cases have frequently included perpetrators posting or threatening to post explicit, embarrassing images of my clients. The threats to share these images are part of the tactics of power and control often used to coerce

victims' behavior, and take place within the context of other violent and controlling behaviors. A review of all Protection from Abuse and Protection from Harassment orders filed in Portland District Court in 2014 reveals that almost 5% of cases filed included a reference to some type of online posting as part of the abuse. I have attached a summary and some excerpts from those filings on pages 6 and 7 of my written remarks.

I want to highlight some recent examples from my cases here in Maine:

1. A woman was drugged, restrained, and sexually assaulted by her partner. He posted the video of the assault, as well as other explicit videos of her, to a website known to their community. She was too ashamed and embarrassed to disclose the extent of the abuse in their relationship or to reach out for support or to law enforcement because of these videos.
2. A college student broke up with her abusive boyfriend. During the relationship he had pushed her, confined her in rooms, and once held a loaded gun to her head. However, she never reached out to law enforcement or advocacy services until he posted nude photos that he uploaded from her computer without her knowledge or permission. After she told him for the last time that she was not going to get back together with him, she learned from friends that he had posted her photos, with her name, to a website known to other students at her university. She was so humiliated she almost did not return to school to complete her education. When she reported to the police they told her there was nothing they could do. She filed a Protection from Abuse case and we were able to negotiate an order that included deleting the photos, because of the past abuse within the relationship.

3. A woman in Maine as an asylee wanted to file divorce against her abusive husband. He threatened to share photographs he had taken during their relationship with her family in Africa if she left him. After she served him with divorce papers, he sent the photos to her family in Africa through one of his family members despite the existence of a Protection from Abuse order. Law enforcement did not prosecute his actions as a violation of the Protection from Abuse order.
4. Another recent case involved a woman whose boyfriend had secretly photographed her nude during the relationship. Once, she noticed him taking a photo of her on his iPad as she got dressed, but he claimed he had deleted the photo at her insistence. When they broke up, he posted a series of photos to a national website, which requires personally identifying information of the person depicted. The images then came up when the woman's name was typed into any search engine. She was very upset because of the implications for her future employment. As I negotiated the Protection from Abuse order, the man told me that he had done nothing wrong because posting the photos was not illegal. She is still working to ensure that the photographs are not accessible.

These examples highlight the extent of the problem here in Maine, and the impact that revenge porn has on Maine people's education, employment, and safety. However, there is no law that protects victims of revenge porn, and no clear way to stop the problem within existing laws. The proposed law would give victims protection and allow them to end unsafe, unhealthy relationships without compromising their safety, health, education, and employment.

Revenge porn is a growing problem in need of specific, targeted action. With the rapid rise of social media, I see more and more cases involving revenge porn every week. When I

began practicing nine years ago, I did not see any of these cases. The first time I remember a case that involved what I now would call revenge porn was 2009. Since then, the topic has grown exponentially within my cases, particularly within the last three years. Revenge porn is a problem that we need to address before it impacts more Mainers.

AMENDMENT

I am proposing an amendment to the current proposal that would allow victims to access immediate protections. Consistent with Maine's current law, which allows victims of sexual assault and stalking to access immediate safety by filing a civil protection order, I am proposing that victims of revenge porn would be able to access that same process.

Specifically, the amendment would add a reference to the crime of revenge porn in the same way the Protection from Abuse statute currently references sexual assault and stalking. I have attached the proposed language. This amendment would not expand the definition of abuse, which is a separate section of the statute, but clarify that victims of revenge porn can also have access to the immediate relief and victim-driven process of the civil court. This amendment would provide clarity to the parties, attorneys, and judiciary. Victims of revenge porn who choose not to access the criminal justice system would still be protected. Although we are sometimes able to address revenge porn as part of a context of other abusive behaviors, making the Protection from Abuse statute consistent with the criminal statute would make the proposed protections stronger and more widely accessible, a strategy that has been very successful in protecting sexual assault and stalking victims by providing other forums for seeking safety and cessation of the behavior.

I strongly encourage the committee to vote in support of this bill with the proposed amendment. The passage of this bill will provide important protections for victims of domestic

violence and sexual assault. The amendment will make the protections consistent and accessible.

Thank you and I would be happy to answer any questions.

PROPOSED AMENDMENT

§4005. Commencement of proceeding

1. Filing. An adult who has been abused by a family or household member or a dating partner may seek relief by filing a complaint alleging that abuse.

When a minor child in the care or custody of a family or household member or a dating partner has been abused by a family or household member or a dating partner, a person responsible for the child, as defined in Title 22, section 4002, subsection 9, or a representative of the department may seek relief by filing a petition alleging that abuse.

An adult who has been a victim of conduct defined as stalking in Title 17-A, section 210-A or described as sexual assault in Title 17-A, chapter 11, or described as unauthorized distribution of images in Title 17-A, section 511-A, whether or not the conduct was perpetrated by a family or household member or dating partner, may seek relief by filing a complaint alleging that conduct without regard to whether criminal prosecution has occurred. When a minor has been a victim of such conduct, the minor's parent, other person responsible for the child or a representative of the department may seek relief by filing a petition alleging that conduct.

2014 Portland District Court Social Media References in Protection from Abuse and Harassment Complaints

SHARED IMAGES	THREAT ENED TO SHARE	POSTED TO SOCIAL MEDIA	THREAT ENED TO POST TO SOCIAL MEDIA	OTHER	NOTES
	Y				threat to send her clients negative personal info through email if she ended the relationship
	Y				threat to send sexually explicit media of victim to his wife
	Y				threat to send sexually explicit pictures to others through SMS
Y					uploaded naked pictures and personal contact info online without consent leading to contact from third parties
	Y				threat to send sexually explicit pictures to others through SMS
		Y			Posted an ad on Craigslist soliciting sex in her name
Y					Recorded her and her partner being intimate and sent her an SMS of the video
			Y		threat to post negative things on Facebook about her
Y					Posted personal info of her online, soliciting third parties to harass her
		Y			Posted images of her on facebook, final order granted under stalking statute
		Y			Posted personal info of her online including health and gender info, soliciting third parties to harass her
		Y			harassing comments on Facebook
Y					posted photos of her on several websites
Y					Posted sexual videos of her on internet, prompting previous restraining order; this order related to a subsequent rape
Y					Wife of defendant posted to shesahomewrecker.com
	Y				threat to post w/name & #
	Y				threatening to post inappropriate photos online
	Y				threatening to post personal information online
		Y			Tweets w/explicit wording (from former friend) w/her full first and last name in them and insults.
		Y			facebook conflict
		Y			facebook threats
			Y		threat to post w/name & #
			Y		threatened to text underwear photo to friends
			Y		threatened to post naked pictures of her on FB
			Y		after sexual assault, following around with a camera
			Y		Threatening to send private personal photos to her family
			Y		threatening posts on twitter

2014 Portland District Court Social Media References in Protection from Abuse and Harassment Complaints

			Y		showing people nude photos she had stored in her phone
				Y	videotaping without consent, nonsexual
Y					threatening facebook post from new GF to ex
				Y	threatened her in social media, facebook and email
				Y	sexual texts
Y					sending 306 messages a day, sending messages to family & GF w/sexual content
	Y				recording & taking videos without consent (nonsexual)
		Y			posted athletic pictures without her permission to FB
		Y			pictures of 14-year-old daughter posted by neighbor on FB
				Y	Left camera on property and videotaped plaintiff & wife; no word on what he did
			Y		Landlord threatened to use FB to "tarnish reputation" of family's teen daughter, push family out of her home
				Y	entire relationship was online stalking; nothing sexual
				Y	defendant texting genital photos to plaintiff
	Y				
				Y	defendant taking pictures of plaintiff while she sleeps
				Y	defendant sending plaintiff unsolicited pictures of his genitals
9	9	9	9	8	
				44	

In the spring of 2015, six law students reviewed 1,016 out of 1,299 complaints for protection from abuse and harassment cases in the Portland District Court. They found references related to revenge porn in 44 complaints.

