



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
In SUPPORT of LD 2085: "An Act to Update Maine's Domestic Violence and Stalking Laws"**

**Before the Joint Standing Committee on Judiciary
Wednesday, January 24, 2024**

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 2085, "An Act to Update Maine's Domestic Violence and Stalking Laws."

As a result of the US Supreme Court's decision in *Counterman v. Colorado* in June 2023, there are questions about the constitutionality of Maine's terrorizing statute, as well as portions of the stalking and harassment by telephone statutes. Since the *Counterman* decision, stalking victims in Maine have not experienced a consistent response from our legal systems. Some victims working with Maine's domestic violence resource centers have been told by law enforcement that the person stalking them can't be arrested or prosecuted because the stalking statute is unconstitutional. Other victims have seen law enforcement made an arrest, but the local district attorney's office determines they cannot pursue a successful prosecution because of the uncertainty around the stalking statute currently. Victims with cases already pending have experienced similar issues. Some victims saw charges withdrawn or amended; other victims were assured their cases could move forward despite defense motions to dismiss charges. MCEDV deeply appreciates Senator Carney working to introduce this bill as emergency legislation this session to address what is a very real problem for stalking victims; and we thank the Committee for bringing it forward for consideration so quickly.

Where stalking is a known predictor of lethal violence, Maine must take swift action to remove any questions as to the constitutionality of our stalking statute in particular. LD 2085 presents a technical fix to three criminal statutes, as well as to discrete, relevant portions of our protection from abuse statute. The modifications proposed in LD 2085 will align these statutes with the *Counterman* decision, and ensure Maine continues to have a

¹ MCEDV serves a membership of eight regional domestic violence resource centers as well as two culturally specific service providers. Our member programs provided services to more than 12,000 victims of domestic violence in Maine last year.

functional response to attend to the public safety issues we know are at play when perpetrators engage in this dangerous pattern of behavior.

Intimate Partner Stalking: Prevalence and Effect

Stalking is a pattern of behavior that can take many forms, including, but certainly not limited to: physical violence or visual closeness, such as waiting for the victim to arrive at certain locations, following the victim, watching them from a distance, repeatedly “coincidentally” showing up where the victim is going to be; making express threats against the victim or their family or friends; leaving unwanted notes and gifts; non-consensual contact, such as repeated phone calls, text messages and emails,² and many other behaviors and tactics.

Of domestic violence homicides in Maine, at least half of the victims were first stalked by the person who ultimately killed them.³ Other studies suggest that our 50% data point is low, with one study finding as many as 94% of intimate partner femicide victims over a three year period had been stalked by their intimate partner. Intimate partner stalkers in particular are the most likely to approach, threaten and harm their victims. In fact, 81% of women who were stalked by a current or former partner were also physically assaulted by that partner; 31% were also sexually assaulted. Compared to non-intimate partner stalking cases, those who stalk current or former partners are more likely to: assault their victims; threaten with, or actually use, weapons; contact and approach the victim more frequently; use the widest range of stalking tactics; escalate in frequency and intensity of pursuit more often; and follow through with their threats of violence.

Being stalked creates a psychological prison that deprives victims of their basic liberty of movement and security in their homes. Stalking victims are stalked for an average duration of almost two years, and more than 10% of stalking victims are stalked for 5 years or more. Stalking has a significant and long-term effect on their lives, including financial effects, such as housing and job loss, as well as medical and mental health effects. The aggregate annual cost of intimate partner stalking in the US is estimated to be \$534 million dollars, accounting just for medical and mental health care for victims and the value of lost productivity, before even looking at the cost of criminal and civil legal system responses, losses eligible for Victim Compensation reimbursement, or address confidentiality programs. Beyond societal costs, stalking victims accrue out of pocket costs for things such as security enhancements, attorneys fees, damage to property, child-care costs, moving expenses, or changing phone numbers.

² The frequency of stalking perpetrators using technology to stalk their victims has only grown as the internet, computers and cell phones have become more and more integral to a person’s ability to carry out the functions of their everyday lives. As of 2021, more than twice as many victims were stalked with technology than without.

³ Maine Commission on Domestic and Sexual Abuse, Domestic Abuse Homicide Review Panel, *The 13th Biennial Report of the Maine Homicide Review Panel* (2021), p. 7, <https://www.maine.gov/ag/docs/DAHRP-Report-for-Posting-ACCESSIBLE.pdf>.



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Why Background and Context is Important

For years now, Maine's policymakers have supported a strong statutory framework for addressing stalking behaviors because it is a predictor of both lethal and non-lethal intimate partner violence, and it has substantial, known, collateral impacts. The prevalence of stalking and what research tells us about its role as a precursor to serious violence means that public safety requires the state to have a thoughtful and effective response. Maintaining the integrity of our statutory framework is critical to that end. What Senator Carney's proposed amendment to LD 2085 puts forward is a fix that will put any questions about the constitutionality of these statutes to rest while maintaining Maine's strong statutory framework. We encourage you to support LD 2085, as presented in the proposed amendment, and continue to move it forward as emergency legislation so that these updates become effective as soon as possible.

As always, thank you for the opportunity to be heard on this important issue.

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