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MCEDV.

The Maine Coalition
to End Domestic Violence

LEGISLATIVE REVIEW

129th Maine Legislature
First Regular Session
2019



mcedv.org

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Introduction

The first session of the 129th Maine Legislature adjourned on June 20, 2019. Legislators considered more than 2,000 bills. The Maine Coalition to End Domestic Violence (MCEDV) provided testimony on more than 25 of these proposals to assist legislators in understanding the likely impact on survivors of domestic abuse and violence in Maine.

Out of this first session came important legislative advancements that will enhance the safety of survivors in our state. What follows is a summary of those legislative changes that we see as likely to have the most impact on survivors and abusive persons.

MCEDV would like to thank the Maine Legislature as well as Governor Janet Mills and her administration for the care and attention given to the needs of survivors in Maine during this busy session. We would also like to thank our innumerable community partners for their continued leadership, support and collaboration, without which many of these advancements would not have been possible.

To find the text of the new laws, visit legislature.maine.gov/legis/bills/.

Legislation

Secured Essential Funding Increase for Domestic Violence Prevention and Intervention

[LD 1171: An Act to Prevent Sexual and Domestic Violence and To Support Survivors](#)

Sponsored by Senator Herbig

[LD 1001: An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2019, June 30, 2020, and June 30, 2021:](#)

Legislation sponsored by Senator Erin Herbig proposed a \$5M increase in state funding for prevention and intervention services to help address domestic abuse and violence and sexual assault in Maine – the first in nearly twenty years to benefit the programs of MCEDV and the Maine Coalition Against Sexual Assault. With strong and bipartisan support from Governor Mills, Maine’s Joint Standing Committees on Health and Human Services and Appropriations, and legislators across the state, MCEDV and our member organizations will receive a one-time allocation of \$2.5M from the Fund for a Healthy Maine over the 2020-2021 biennium to enhance available services.

We are ecstatic and extremely grateful for this essential funding for the next biennium. It is critical that this funding continues on an ongoing basis, so MCEDV and our member organizations will continue to work with Governor Mills and the Maine Legislature to achieve that important goal to ensure enhanced services for survivors in Maine in the long-term.

New Relief for Survivors of Economic Abuse in Maine

[Public Law 2019, Chapter 407](#)

LD 748: An Act to Provide Relief to Survivors of Economic Abuse

Sponsored by Representative Faye

This legislation responds to the pervasive problem of economic abuse in Maine by broadly defining “economic abuse” in state law, expanding the range of monetary relief available to

survivors in protection from abuse proceedings and enhancing consumer protections for survivors in Maine who have experienced economic abuse by creating a process for credit repair and debt collection relief.

Legislators unanimously supported this important bill after learning from [a recent Maine-based study](#)¹ conducted by MCEDV that 81% of survivors surveyed in Maine cited economic abuse as a barrier to separating, 57% noted that their abusers incurred debt in their names, and 72% reported that abusers lied about paying the bills. Legislators heard directly from survivors what economic abuse looked like for them and how great an impact economic abuse has had on their long-term financial stability post-separation.

As a result, economic abuse is now broadly defined in Maine law as “*causing or attempting to cause an individual to be financially dependent by maintaining control over the individual’s financial resources, including but not limited to, unauthorized or coerced use of credit or property, withholding access to money or credit cards, forbidding attendance at school or employment, stealing from or defrauding of money or assets, exploiting the individual’s resources for personal gain of the defendant or withholding financial resources such as food, clothing, necessary medication or shelter*” (19-A M.R.S. § 4002(3-B)).

Prior to the passage of this new law, a survivor who was not married to their abuser could only seek monetary relief for lost wages, restitution for property damages or personal injuries and reasonable moving expenses. This restrictive language prevented survivors from seeking relief for some of the most common financial abuses: depletion of a joint bank account immediately after being served with the temporary order; turning off the utilities, thus triggering a reinstatement fee; and maxing out available credit to limit a survivor’s financial independence. The new law expands the Court’s authority in protection from abuse cases to allow an award of monetary relief for any loss sustained as a result of the abuser’s conduct, including allowing the Court to order awards for temporary living expenses regardless of marriage. The new law also clarifies that a survivor’s choice not to pursue available financial relief through this summary proceeding does not preclude the survivor from seeking relief through other means.

The law also creates new consumer protections for survivors who have experienced economic abuse which has impacted their credit. Beginning in September 2019, a survivor who has debt that is caused by economic abuse, including a debt incurred through coerced use of credit, may contact a credit reporting agency with certain supporting documentation and request to have any negative references to that debt removed from their credit report.

¹ “A Report on the Impact of Economic Abuse on Survivors of Domestic Violence in Maine,” MCEDV, 2019. Available at: https://www.mcedv.org/wp-content/uploads/2019/02/Economic-Abuse-Report_FINAL.pdf

If original creditors sell a debt that was caused by economic abuse to a third-party debt collector who then seeks to collect on that debt, a survivor who can obtain certain supporting documentation will now have a process to halt that debt collection effort.

Enhanced Penalties Created for Repeat Violations of Protection Orders

[Public Law 2019, Chapter 412](#)

LD 18: An Act to Ensure Proper Prosecution of Crimes Involving Domestic Violence and Enhance Protection of Victims of Domestic Violence

Sponsored by Representative Reckitt

This legislation, effective immediately, makes it a felony crime to violate a protection from abuse order when the defendant has two prior convictions for violating such an order. It also classifies the most serious felony assaults against a family or household member as domestic violence aggravated assaults in Maine’s criminal code. Both of these modifications to Maine’s law will enhance victim safety through increased perpetrator accountability.

Elevating a third violation of a protection order to a felony is in keeping with the recent “Report of the Attorney General’s Task Force to Review Deadly Force Incidents by Police,”² which recommended that the State consider implementing enhanced penalties for individuals who violate protection orders and, specifically, elevating repeated violations of protection orders to a felony level. It also responds to observations of Maine’s Domestic Abuse Homicide Review Panel, where the latest report notes prior protection from abuse orders against almost half of the perpetrators in the cases reviewed by the panel.³

Being able to distinguish domestic violence aggravated assault offenders will ensure that appropriate interventions and restrictions are in place for these offenders, including ensuring that the Department of Corrections can appropriately apply its policies around accrual of good time in domestic violence cases. Additionally, it will provide important clarity in our crime data reports to help the state recognize trends and the impact of efforts to increase both accountability for offenders and reduce overall domestic violence crime rates.

² “Report of the Attorney General’s Task Force to Review Deadly Force Incidents,” 2019. Available at: <https://www.maine.gov/ag/news/article.shtml?id=1033393>

³ “Voices Against Violence: The 12th Biennial Report of the Maine Domestic Abuse Homicide Review Panel,” 2018. Available at: <https://www.maine.gov/ag/docs/DVHRP-FinalReport%2010.2.2018.pdf>

Easier Access for Survivors to Important Evidence for Protection from Abuse Hearings

[Public Law 2019, Chapter 84](#)

LD 475: An Act to Ensure Caller Access to E911 Audio Recordings

Sponsored by Senator Libby

This new law will make it easier for survivors to get access to their 911 calls in PFA proceedings. Recognizing what important evidence these audios can be and the disparity in access between plaintiffs and defendants, with the support of Senator Nate Libby, the Department of Public Safety, and the Maine Judicial Branch, legislators created a process for expedited access to these audios for use in protection from abuse proceedings. This new law provides that, if either of the parties in a protection from abuse proceeding made a relevant call to 911, all that caller now has to do to get that audio immediately sent to the courthouse is send a written request (including by email or fax) to the 911 center together with proof that a protection from abuse proceeding that they are party to is pending in that courthouse. Once the audio gets to the courthouse, either party can make a request to the judge to review the audio, which can even be done as late as on the day of the hearing, since the audio will now be physically held at the courthouse. As in current law, the Court may still subsequently allow for distribution of the audio upon a finding of good cause.

Previously, it was incredibly difficult for a survivor to get access to their 911 calls in advance of a final hearing in a protection from abuse proceeding. As a practical matter, only a survivor represented by an experienced attorney who was involved at least a week prior to the hearing was able to successfully obtain this important evidence. There were many barriers, including that the hearing is scheduled less than 21 days from the date of filing (and often much less than that) and the audio could not be released from the 911 call center until a motion was filed by the survivor, a judge had reviewed that motion and issued an order, the order was received by the survivor or the survivor's attorney, and, finally, the order was then sent to and received by the 911 call center. This reality often put survivor-plaintiffs at a disadvantage, because when a relevant 911 call was made that resulted in criminal charges against a defendant, the defendant would get almost immediate access by virtue of criminal court discovery – discovery which would not be made accessible to the plaintiff.

Improving the Definition of “Strangulation”

[Public Law 2019, Chapter 91](#)

LD 779: An Act to Improve the Definition of “Strangulation” in the Aggravated Assault Laws
Sponsored by Senator Claxton

Prosecutors in Maine had reported finding it difficult to successfully prosecute defendants for the crime of strangulation, which is found in Maine’s aggravated assault laws. This was particularly problematic given the connection between strangulation and intimate partner lethality.

This legislation, unanimously supported by legislators, removes the requirement that prosecutors must prove a defendant *intentionally impeded the breathing* of their victim. Instead, prosecutors must prove that the defendant *intentionally, knowingly or recklessly applied pressure to the neck of their victim which resulted in the impeding of their breathing*.

MCEDV and community partners will work together to monitor the implementation of this change to Maine’s criminal code to observe whether it does in fact result in an increase of successful prosecutions for this dangerous crime in an effort to ensure that perpetrators who use lethal violence are appropriately held accountable.

Clarifying that “Direct or Indirect Contact” Includes ‘via Social Media’

[Public Law 2019, Chapter 176](#)

LD 978: An Act to Clarify Maine’s Protection from Abuse Statutes
Sponsored by Representative Bailey

This legislation adds a “social media” definition to Maine’s protection from abuse statute and grants the Court express authority to order in a final protection from abuse order that a defendant refrain from having direct or indirect contact with a plaintiff via social media.

This change is in response to a recent decision from the Maine Law Court, [State v. Heffron \(2018 ME 102\)](#), which upheld a conviction for violation of a protection from abuse order where a defendant posted on his publicly accessible Facebook page at least one post that addressed the protected party directly (first by name and then by using the second-person “you,”) where the parties used to be Facebook friends, and where the parties continued to have Facebook friends in common.

Expanding Access to Protection from Abuse Orders

[Public Law 2019, Chapter 359](#)

LD 496: An Act to Extend the Availability of PFA and PFH Orders

Sponsored by Senator Guerin

This legislation responds to gaps in eligibility for protection from abuse orders made tragically evident by a 2018 homicide. Specifically, a person was only eligible to obtain a protection from abuse order against a relative if the two currently or had previously lived together. Thus, when a Hampden woman sought a protection from abuse order against her brother-in-law, she was denied on the basis that, although they lived in close proximity, they had never lived together.

The new law expands the category of persons eligible to obtain protection from abuse orders to anyone related by blood or marriage, regardless of residential connection. It also directs the Court to provide a plaintiff with contact information about domestic violence resources as provided to the court by local or statewide organizations providing those services, which will better connect survivors in crisis to critical legal advocacy services.

Lastly, as a result of conversations spurred by this proposal, the Maine Judicial Branch has agreed to include language on the forms used when issuing denials of temporary orders in both protection from abuse and protection from harassment proceedings that will inform the litigant that, while they were denied relief in a PFA proceeding, perhaps they should look into whether they might better qualify in a PFH and vice versa.

Adding Tribal Representation to the Maine Commission on Domestic and Sexual Abuse

[Public Law 2019, Chapter 18](#)

LD 870: An Act to Change the Membership of the Maine Commission on Domestic and Sexual Abuse to Include More Tribal Members

Sponsored by Representative Stover

The Maine Commission on Domestic and Sexual Abuse was created by statute more than two decades ago and is directed to “advise and assist the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse.” (19-A M.R.S. § 4013)

This legislation recognizes the unique needs of Maine’s four tribal communities and the importance of tribal participation in conversations concerning domestic and sexual abuse and violence in Maine. This new law incorporates four tribal representatives to the Commission by removing two of six at large seats and one seat each for representatives of domestic violence and sexual assault services organizations, creating parity of representation across coalitions and including tribal government, law enforcement, and courts among the Commission membership.

Creating Limited Paid Leave for Most Mainers

[Public Law 2019, Chapter 156](#)

LD 369: An Act Authorizing Earned Employee Leave

Sponsored by Senator Millett

This new law creates a limited paid leave structure in Maine. Effective January 2021, for businesses with more than 10 employees, each employee will be allowed to accrue one hour of earned paid time off for every 40 hours worked, up to 40 hours per year. This leave can be accessed after 120 days of employment.

In [one Maine-based study](#),⁴ 60% of survivors reported losing their jobs as a direct consequence of the abuse. A staggering 98% said that the abuse made them worse at their jobs: they couldn’t concentrate because they’d been attacked or were anticipating an attack when they got home.⁵ Paid time off can create space for survivors to address important safety needs without jeopardizing their employment. In that way, ensuring the availability of paid time off for all employees is directly linked to enhancing the economic stability of survivors.

Directing MaineCare to Provide Health Insurance Coverage for Abortion Services

[Public Law 2019, Chapter 274](#)

LD 820: An Act to Prevent Discrimination in Public and Private Insurance Coverage for Pregnant Women in Maine

Sponsored by Representative McCreight

⁴ Ridley, Rioux, et. al., “Domestic Violence Survivors at Work: How Perpetrators Impact Employment.” 2005. Available at: https://www1.maine.gov/labor/labor_stats/publications/dvreports/survivorstudy.pdf

⁵ Ibid.

Under this new law, abortion services will soon be covered under MaineCare benefits. Autonomy over one’s own body and the ability to decide when and if to have a child are central to a survivor’s wellbeing and cannot be separated from other efforts to help them live – and thrive – in safety and freedom. Reproductive coercion is a reality for too many survivors, with 40% of pregnant women who have experienced abuse reporting that their pregnancy was unintended compared to just 8% of non-abused women⁶. This law will improve survivors’ ability to maintain control over their own reproductive health.

For more on how reproductive choice is linked to safety, see MCEDV’s [testimony](#) to Maine’s Joint Standing Committee on Health Coverage, Insurance and Financial Services.

Creating a Felony Crime for Retaliation Against a Witness, Informant, Juror or Victim

[Public Law 2019, Chapter 309](#)

LD 1022: An Act Regarding the Crime of Tampering with a Witness, Informant, Juror or Victim

Sponsored by Senator Carpenter

While someone could be held accountable for interfering with the future testimony of victims, witnesses and informants, the law in Maine has historically been silent as to criminal acts that were committed against an individual in retaliation for their role in the criminal justice process once their participation had already happened. This new law, sponsored by Senator Michael Carpenter, changes that. Going forward, when a person commits criminal conduct against a victim, witness, informant or juror in retaliation for that person having participated in the criminal justice process, that person is not only subject to being charged for that specific crime, but can also be charged with the new Class C felony crime of Retaliation Against a Witness, Informant, Victim or Juror (17-A M.R.S. § 458).

⁶ Hathaway, Mucci, et. al., “Health Status and Health Care Use of Massachusetts Women Reporting Partner Abuse.” American Journal of Preventive Medicine. 2000; 19(4); 318-321.

Collaborative Study Groups and Task Forces Established

Several resolves were enacted to establish multi-disciplinary working groups to study a range of important issues, mostly centered around the desire to see reforms across the criminal justice system. These include:

[Public Law 2019, Chapter 104](#)

LD 829: Resolve, To Reestablish the Commission to Improve Sentencing, Supervision, Management and Incarceration of Prisoners

Sponsored by Representative Talbot Ross

This resolve establishes a Commission to prepare recommendations addressing the following goals:

- 1) reducing overall juvenile and adult prison population in both state and county facilities, with a focus on lowering the population of non-violent offenders;
- 2) reducing the overall cost of the corrections system;
- 3) accomplishing policy, program and structural improvements that reduce recidivism and improve the transition of prisoners back into the community;
- 4) preserving community safety;
- 5) respecting the needs of victims and communities in the process of holding prisoners accountable for their actions; and
- 6) developing recommendations that address the factors leading to increasing juvenile and adult prisoner populations at both the county or regional jail and state prison levels, the impact of current sentencing laws, and the use of alternate sentences and means to reduce recidivism, in particular recidivism caused by mental illness and substance use disorder.

The resolve directs Governor Mills to appoint one representative from a statewide organization working to end domestic violence to serve on the Commission.

[Public Law 2019, Chapter 90](#)

LD 764: Resolve, To Create the Criminal Records Review Committee

Sponsored by Representative Talbot Ross

This resolve creates a Criminal Records Review Committee tasked with:

- 1) reviewing activities in other states that address the expungement of, sealing of and otherwise limiting public access to criminal records;

- 2) considering whether convictions for conduct that has been decriminalized and/or convictions for conduct that was committed by victims and survivors of sexual exploitation and sexual trafficking should be treated differently than other convictions;
- 3) considering if there is a time limit after which some or all criminal records should not be made publicly available;
- 4) inviting comments and suggestions from victim advocates and prison and correctional reform organizations;
- 5) reviewing existing information about the harms and benefits of making criminal records confidential;
- 6) inviting comments and suggestions concerning the procedures and processes to limit public accessibility to criminal records;
- 7) considering who, if anyone, should continue to have access to criminal records that are not publicly available; and
- 8) developing options to manage criminal records.

The President of the Maine Senate is to name one representative from either a domestic violence or sexual assault agency to serve on the committee. MCEDV will be working closely with the Maine Coalition Against Sexual Assault (MECASA) as the work of this group moves forward.