



The Maine Coalition
to End Domestic Violence

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**Testimony of Francine Stark
In Support to LD 1312
“An Act Regarding Access to Firearms by Extremely Dangerous and Suicidal Individuals”
Before the Joint Standing Committee on Judiciary
Monday, April 22, 2019**

Senator Carpenter, Representative Bailey, and members of the Joint Standing Committee on Judiciary:

My name is Francine Stark, from Surry, Maine. I am the Executive Director of the Maine Coalition to End Domestic Violence (MCEDV),* and I am writing today on behalf of MCEDV and our member programs in support of LD 1312, “An Act Regarding Access to Firearms by Extremely Dangerous and Suicidal Individuals.”

When we look at homicide in our state, we often see suicidality. Suicidality is a well understood risk factor for future lethality. We commend this proposal because it will cover those circumstances in which a protection from abuse order has not been obtained, or may not be appropriate or possible, and a particular person’s access to a gun needs to be reviewed in order to address important safety concerns and the preservation of life. We believe that this process will primarily be used to address a small number of individuals in temporary crisis, suffering from recently onset mental health crisis, traumatic loss, or other acute challenges, but who have not previously engaged in behavior that would permit their family or household member to successfully pursue a protection from abuse order. This is a gap in Maine’s safety net that needs to be addressed.

However, MCEDV and our member programs are concerned about the precedent created by this proposal as currently drafted in creating a right to counsel in connection with a court issuing a firearms removal order and the unintended collateral consequences this may have in protection from abuse cases. We would note for the Committee that the protection from abuse process in our state was created, and has been consistently improved, to address an array of complicated safety and stability issues. In doing so, we have given our courts a fairly comprehensive list of remedies available to them, one of which is to order the removal of weapons from the offender under certain circumstances, when the court finds that abuse has occurred and that there is a future risk of abuse to a family or household member. While it is only one of a veritable raft of remedies the court can offer in a protection order proceeding, the availability of a firearms removal order in protection from abuse proceedings has been life-saving to countless survivors in our state for decades.

For the last forty years, pro se litigants across our state have successfully navigated the protection from abuse process in accessing a similar remedy through an almost identical process, most either on their own or assisted by advocates from domestic violence or sexual assault centers. This includes litigants who are approaching that process severely trauma impacted, as well as those who are suffering the same types of acute mental health issues and/or other acute challenges that would likely result in a petition being filed under the process proposed through LD 1312. We encourage the committee to remove the right to court appointed counsel in these proceedings in order to avoid introducing an unfunded and unnecessary obligation for the court to pay for attorneys in civil matters such as this. We are concerned that this may thus come to be expected in protection from abuse cases, jeopardizing the ability of survivors of domestic violence to obtain firearms retrieval orders, which continue to be a critical component of homicide prevention in our state and across the country. Having reviewed similar “red flag” laws in other states, we found only one state that provides counsel for litigants, the others are pro se unless the litigants obtain their own counsel – just as Maine’s protection from abuse process is structured.

And finally, we are concerned that including a right to court appointed counsel will result in a fiscal note which will ultimately reduce the likelihood that this important bill and the protections it provides will not come to fruition.

Thank you for allowing me to share our perspective. Please do not hesitate to see us as a resource as this process moves forward.

*The Maine Coalition to End Domestic Violence (MCEDV) represents a membership of eight domestic violence resource centers across our state, as well as the Immigrant Resource Center of Maine. In 2018, our member centers served 14,000 survivors of domestic violence in Maine. Over 3,100 survivors were helped by our court and legal advocacy projects, through which advocates stand shoulder to shoulder with survivors as they navigate our civil and criminal justice systems in every courthouse in Maine