

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from combination of electronic originals  
and scanned originals with text recognition applied  
(electronic original may include minor formatting differences from printed original;  
searchable text in scanned originals may contain some errors and/or omissions)

**REPORT OF  
THE MAINE COMMISSION ON  
DOMESTIC AND SEXUAL ABUSE  
AND  
THE GOVERNOR'S ADVISORY COUNCIL  
ON  
THE PREVENTION OF  
DOMESTIC AND SEXUAL VIOLENCE**

**Presented to Governor John E. Baldacci  
March 18, 2005**

## ACKNOWLEDGEMENTS

The Governor's Advisory Council  
on the Prevention of Domestic and Sexual Violence and  
the Prosecution of Related Crimes in Maine  
as well as  
The Maine Commission on Domestic and Sexual Abuse

would like to thank the following individuals for generously sharing their time, ideas and expertise in this endeavor. Their dedicated work over a seven-month period identified problems, and possible solutions, for the disturbing offenses of domestic and sexual violence that affect families in all corners of Maine. Because this list is not exhaustive, we also express our appreciation to those who sent in their suggestions and who submitted to interviews as we gathered information throughout the state.

Linda Donovan, Esq.	York County DA Office
Daryl Fort	Office of the Governor
Hon. Joyce Wheeler	Maine District Court
Richard Thompson, C.I.O.	Department of Administrative and Financial Services
Ted Glessner	Administrative Office of the Courts
Deborah Tuerkheimer, Esq.	University of Maine, School of Law
Lt. Anne Schaad	Maine State Police
Tracy Cooley	Muskie School of Public Service
Tom Godfrey	Maine Primary Care Association
Marion Hylan Barr, Esq.	Office of Policy and Legal Analysis
Mary Lucia	Department of Public Safety
Faye Luppi, Esq.	Violence Intervention Partnership
Lisa Marchese, Esq.	Office of the Attorney General
Peggy Reinsch	Office of Policy and Legal Analysis
Linda Wilcox	Family Violence Project
Lois Galgay Reckitt	Family Crisis Services
Anita St. Onge, Esq.	Muskie School of Public Service
Susan Tedrick	Family Violence Project, Board Member
Hon. Vendean Vafiades	Maine District Court
Alice Clifford, Esq.	Penobscot County District Attorney's Office
Lesley Devoe	Licensed Clinical Social Worker
Susan Hall Dreher	Sexual Assault Support Services of Midcoast Maine
Karen Elliott	Bureau of Elderly and Adult Services
Kate Faragher	Family Violence Project
Denise Giles	Victim Services, Department of Corrections
Chief Edward Googins	South Portland Police Department
Gerard Guimond	Fairchild Semiconductor
Kathryn Maietta Harrington	Acadia Hospital
Juliet Holmes Smith, Esq.	Pine Tree Legal Assistance

Michael Levey, Esq.	Attorney
Cathy McDaniel	Survivor, Community Member
Dr. Robert Moyer	Bates College (retired)
Susan Parks	Department of Education
Carol Perkins	Abused Women's Advocacy Project
Kimberly Roberts	Maine Coalition to End Domestic Violence
Laura Yustak Smith, Esq.	Office of the Attorney General
Kathy Walker	Rape Response Services
Robert Young	Piscataquis Sheriff Department
Hon. Leigh Saufley, Chief Justice	Maine Supreme Court
Anna Melbin	Muskie School of Public Service
Rebecca Henry, Esq.	Legal Services for the Elderly
Hon. Robert Mullen	Maine District Court
Hon. Paul Eggert	Maine District Court
Charlie Hartman	Maine Coalition to End Domestic Violence
Lynn Fortin	Maine Department of Public Safety
Michael P. Cantara, Commissioner	DPS, Co-Chair of Advisory Council and Commission
Elizabeth Ward Saxl	MECASA, Co-Chair of Advisory Council and Commission

# CONTENT

<b>INTRODUCTION.....</b>	<b>4</b>
<b>I. VICTIM SAFETY.....</b>	<b>4</b>
A. Bail.....	4
B. Protection From Abuse Orders .....	5
C. Sex Offender Registration And Notification .....	6
D. Victim Privacy / Confidentiality.....	6
E. Victim Notification.....	7
F. Victim Support.....	7
G. Access To Legal Aid.....	7
<b>II. OFFENDER ACCOUNTABILITY.....</b>	<b>8</b>
A. Bail.....	8
B. Batterers’ Intervention Programs.....	8
C. Sentencing Options .....	9
D. Domestic Violence Prosecutors / Investigators .....	9
<b>III. PREVENTION .....</b>	<b>9</b>
A. Raising Public Awareness.....	9
B. Training for Professionals.....	11
C. Education / Youth .....	12
<b>IV. INFORMATION GATHERING/SHARING AND TECHNOLOGY</b>	<b>12</b>
A. Criminal History Records Information (CHRI) Database .....	13
B. Access To Data .....	14
C. Technology Links .....	14
D. Increased Electronic Access To Protection From Abuse Orders.....	14
E. Role of MCJUSTIS.....	15
F. Data Gathering.....	15
G. Use Of Arrest Tracking Numbers (ATNs).....	16
H. Sex Offender Registry.....	16
I. Recommendations.....	16
<b>V. SYSTEMS COORDINATION.....</b>	<b>18</b>
A. Judicial System .....	18
B. Statewide Coordination / Planning .....	18
C. Technology .....	18
<b>CONCLUSION.....</b>	<b>19</b>

## **INTRODUCTION**

On June 23, 2004, Governor John E. Baldacci signed an Executive Order entitled: “Governor’s Advisory Council on the Prevention of Domestic and Sexual Violence and the Prosecution of Related Crimes in Maine” (Appendix A, attached). In addition to forming this Advisory Council, the Governor asked that a partnership be formed with the Maine Commission on Domestic and Sexual Abuse. Together, they were asked to evaluate the state’s responses to the widespread problems of domestic violence and sexual assault. The Executive Order directed that a report be submitted to the Governor, outlining the Council’s and Commission’s observations, evaluations and recommendations.

It should be noted that after seven months of work and analysis the participants advanced many excellent ideas. This report represents our best effort at identifying those areas on which there was the broadest support in a group comprised of over 40 hardworking, thoughtful and dedicated individuals. This report should not be read as the “final word” on the subject of domestic and sexual abuse. Rather, it should be viewed as a part of an on-going effort in which all Maine citizens must engage if we are ever to reduce and eliminate the violence and abuse that afflict too many of our co-workers, relatives and friends every year throughout our state, causing pain, trauma, economic hardship, and, tragically, death.

### **I. VICTIM SAFETY**

In examining how state laws, court rules, sentencing practices and bail laws can prevent domestic and sexual violence and improve the safety of victims, we identified the following areas for consideration:

#### **A. Bail**

We recommend that the judicial branch examine and establish baseline qualifications and provide additional training for bail commissioners, including certification. It is specifically recommended that the Bail Code, at 15 M.R.S.A. § 1023 (7), be amended to provide that mandatory training for bail commissioners include instruction on domestic violence, sexual abuse, risk assessment, and elder abuse. Bail commissioners should repeat this training every three years as a condition of continued service.

It is recognized that the courts would need funding to train bail commissioners adequately. To that end, it is recommended that the Bail Code, at 15 M.R.S.A. § 1023 (5), be amended to provide that fees paid by criminal defendants go to a special designated court fund, and perhaps increased, so that bail commissioner training can be funded. This fund could also be used to pay bail commissioners, altering the current method by which bail commissioners are paid, and eliminating the appearance of any financial incentive to set bail conditions favorable to defendants.

We also recommend that the Bail Code be amended to provide that bail commissioners cannot set bail on violations of condition of release and criminal violations of protection from abuse orders. Amending 15 M.R.S.A. § 1023 (4), establishing that only a judge, NOT a bail commissioner, can set bail for violations of orders for protection from abuse or violations of pre-conviction or post-conviction conditions of release is important in assuring that victim safety is enhanced.

The judiciary and bail commissioners must, where appropriate, set conditions of bail that prohibit dangerous weapons, prohibit contact with the alleged victim, and prohibit use or possession of alcohol or illicit drugs. Bail commissioners and the judiciary should be trained and encouraged to fashion specific conditions of release that enhance the safety of individual victims.

It is also recommended that 15 M.R.S.A. § 1002 be amended, in the second paragraph, to add the following language: “and the safety of others in the community” to the second sentence, after the words: “integrity of the judicial process.” The addition of this language would parallel the first sentence of that same paragraph and make the intent of the Bail Code clearer.

We recommend that 15 M.R.S.A. § 1026 (4) be amended. This part of the Bail Code lists the factors to be considered in the release or bail decision. We recommend adding these words: “ensure the integrity of the judicial process”. This amendment would emphasize, in the statute, that this factor, “ensuring the integrity of the judicial process,” which is explicitly listed as part of the purpose and intent of the Bail Code at 15 M.R.S.A. § 1002, and which, by definition, includes preventing the defendant from “threatening, injuring or intimidating” victims and witnesses, be taken into consideration when bail conditions are set.

## **B. Protection From Abuse Orders**

A victim may seek emergency civil protection and remedies from the courts by filing a complaint for protection from abuse. Maine’s protection from abuse statute, 19-A M.R.S.A. § 4001 et seq., currently protects people from abuse by a family or household member.

In the interest of enhancing victim safety, and recognizing that not everyone threatened with domestic violence or sexual abuse will choose to approach law enforcement or the criminal justice system, we recommend that Title 19-A, Chapter 101 be amended to provide the following groups with access to the protection from abuse process:

- Dating (non-sexual) partners
- Victims of stalking and sexual assault (not just family or household members)
- Adult victims of certain caregivers (to include as defendants those individuals with caregiver responsibility for the elderly)

- Adult family members not living in the same household (again, addressing elder abuse situations)
- Minors or next friend on behalf of minors

The Advisory Council and Commission members are prepared to assist in the drafting of proposed statutory language to address the above-referenced points.

We are mindful that the wording must be specific in order to avoid an inappropriate expansion of the protection from abuse process to cases more appropriately addressed through the protection from harassment process, and to avoid giving minors general authority to file suit without the benefit of a parent, guardian or “next friend.”

Additionally, we strongly urge that a mechanism be developed that would give plaintiffs 24 hour / 7 day per week access to a magistrate or judge for protection from abuse orders. Many other states have implemented a round-the-clock system with great success.

### **C. Sex Offender Registration And Notification**

We support the establishment of statewide minimum notification standards, with the input and consultation of law enforcement and the state’s sexual assault support centers. We support the ongoing efforts of the Maine Criminal Justice Academy, the Maine Chiefs of Police, and the Maine Coalition Against Sexual Assault to establish statewide notification standards and procedures in consultation with the Office of the Attorney General. The careful establishment of such standards may help insulate the notification methods from legal challenge. We encourage all law enforcement agencies with computer technology to provide a link to the Sex Offender Registry maintained by the State Bureau of Identification, rather than providing their own local registries.

We understand that the Department of Public Safety is submitting legislation that would clarify the Sex Offender Registration and Notification laws. The proposed amendment would clarify the statute, especially with respect to the treatment of persons convicted outside Maine. We support this legislation.

### **D. Victim Privacy / Confidentiality**

We recommend that the Governor submit legislation to ensure that confidential domestic violence and sexual assault victim information is protected (Homeless Management Information System; shelters; subsidized housing; federal reporting).

Specific legislation is necessary to provide an exception from federal regulations that would otherwise require victim-identifying information be disclosed.

We are prepared to assist the Administration in drafting this legislation.



## **E. Victim Notification**

We recommend that prosecution-based Victim Witness Advocates encourage victims of offenders who have been sentenced to incarceration complete victim notification forms for submission to the jail or Department of Corrections so that victims are notified ~~of~~<sup>upon</sup> work-release, furlough, projected date of release and discharge of the offender.

We also recommend that ~~Title-~~ 17-A M.R.S.A. §, ~~Section~~ 1175, Notification of Defendant's Release, regarding Victim Notification be amended, by adding the following italicized language, to add to the list of offenses requiring notice to the victim of release from institutional confinement ~~the following language~~:

Upon complying with subsection 1, a victim of a crime of murder or stalking or of a Class A, Class B, or Class C crime, or a victim of a ~~Victims of a~~ Class D crime against a family or household member under ~~C~~hapters 9 ~~(Offenses Against the Person)~~ -11 ~~[Sexual Assaults], 12 [Sexual Exploitation of Minors] or 13 (Kidnapping and Criminal Restraint), or~~ section 506-B ~~(Violation of a protective order)~~ or; section 758 ~~(Obstructing report of a crime or injury) for which the defendant is committed to the Department of Corrections or to a county jail...must receive notice of the defendant's ...[release]~~.

Any victims wishing to be notified of the offender's release are required under section 1175 to request such notification from the office of the attorney for the state, who forwards the request to the appropriate ~~notification~~<sup>agency</sup>.

This ~~recommendation~~<sup>addition is</sup> ~~should not not eliminate~~<sup>meant to lessen</sup> law enforcement agencies obligation under ~~Title-~~ 25 M.R.S.A. § ~~section~~ 2803-B to have a policy in place to ensure that a domestic violence victim is notified of an offender's release from jail, but ~~should to~~ provide a mechanism to allow that notification to take place, particularly in cases involving post-conviction incarceration.

## **F. Victim Support**

We recognize and commend the important work done by shelters and victim support services long before there were much public awareness and governmental initiatives in the areas of domestic and sexual abuse. Not all victims use the criminal justice system. The agencies and groups providing information hot lines, victim services, emergency shelters, transitional housing, and volunteer support groups need not only our thanks, but our support. We recommend funding for these valuable services, through state and local budgets, as well as private donations, in order to provide a statewide "safety net" for countless victims throughout Maine.

## **G. Access To Legal Aid**

Studies have shown that access to legal services for a host of civil matters helps to reduce domestic abuse. The ability to work through complex issues such as protection from abuse orders, divorce, child custody, child support, and the division of property or assets is greatly enhanced if a victim has the benefit of a lawyer. Civil legal assistance broadens a victim's economic alternatives and enhances the victim's ability to escape abusive situations.

The Women's Law Section of the Maine Bar Association will soon inaugurate a program offering pro bono legal services to indigent domestic abuse victims in need of legal services in civil matters. This initiative recognizes that lack of financial resources is a real obstacle for women attempting to leave violent, dangerous relationships. We commend, and strongly support, this effort, spearheaded by Attorney Catherine A. Lee of Westbrook.

## **II. OFFENDER ACCOUNTABILITY**

We strongly endorse the concept of offender accountability, which, in our view, can have a direct impact on victim safety.

### **A. Bail**

One sure way of keeping victims safer, holding offenders accountable and maintaining the integrity of the judicial process is to encourage the development of bail monitoring services such as Maine Pre-Trial Services. Working in York, Cumberland, Washington, Androscoggin, Knox and Aroostook counties, Maine Pre-Trial has, over time, demonstrated that meaningful monitoring of defendants released on bail not only enhances victim safety, but saves taxpayers money by avoiding unnecessary pre-trial detention.

### **B. Batterers' Intervention Programs**

We urge prosecutors, judges and probation officers to increase the use of and enforce compliance with certified Batterers' Intervention Programs (BIPs). There is data indicating that there are now more domestic violence offenders under the supervision of the Department of Corrections who are required to attend anger management counseling than offenders required to attend a Batterers' Intervention Program.

Research consistently shows that domestic violence offenders who complete Batterers' Intervention Programs recidivate less often than offenders who do not complete these programs. Anger management programs are not subject to any state-certification or monitoring and they are often not appropriate for domestic violence offenders. Research has not clearly tied completing anger management programs to lowered domestic violence recidivism. Therefore we urge defense counsel, prosecutors, judges and

probation officers to assign domestic violence offenders to anger management programs only in exceptional cases and then only after careful consideration of the differences in the content and purposes of these two types of programs and the characteristics of the offender. (See Appendix C, attached)

### **C. Sentencing Options**

We encourage the judiciary to consult research-based risk indicators, with input from victim advocates, Batterers' Intervention Program providers, and the Department of Corrections, to assist the court in critical decision-making, including bail, conditions of release, sentences, probation and probation conditions. These research-based indicators could be valuable to the judiciary in a variety of civil matters as well, including child custody, elder abuse issues (including financial exploitation of older adults), visitation, family law, guardianship and protection from abuse matters.

We support the changes to Public Law 2003, chapter 711 (L.D. 1903) recently recommended by the Sentencing Commission (Appendix B, attached). If enacted, this amendment will give sentencing judges a greater measure of flexibility in the types of sentences that can be imposed.

### **D. Domestic Violence Prosecutors / Investigators**

Based on the information reviewed, we conclude that each prosecutorial district in Maine should have, at a minimum, one domestic violence prosecutor, as well as a domestic violence/sexual assault investigator working out of the District Attorney's Office.

A specialized prosecutorial bar, working with dedicated investigators, would result in a highly trained prosecutorial team familiar with the dynamics of domestic and sexual abuse, promote consistency in sentencing and realize the dual goals of holding offenders accountable and keeping victims safe.

## **III. PREVENTION**

The ideal, of course, is to prevent domestic and sexual abuse from occurring. The key to prevention is a coordinated community effort, which includes everyone, not just police, the courts and victim advocates.

### **A. Raising Public Awareness**

We believe that the media can play a powerful role in increasing public awareness in preventing domestic and sexual abuse. Specifically, if the media were better informed

and better educated in these areas, it would have the ability to increase the public's understanding of the complex issues surrounding sexual assault and domestic violence.

We recommend that domestic violence and sexual assault victim advocates, law enforcement, members of the judiciary and prosecutors make themselves available to provide training to members of the media. Further, we recommend that every newspaper and local television station assign one reporter to get an in-depth education about domestic violence and sexual assault offenses. This education should include an understanding of the court system. The public depends on accurate reporting to deepen its understanding of the dynamics of domestic and sexual abuse.

We observe that in many cases community members or victims themselves do not recognize the serious level of dangerousness posed by certain abusers. We support and encourage all efforts to raise community awareness of domestic violence. We recommend that the Maine Coalition to End Domestic Violence partner with the Education and Awareness Committee of the Maine Commission on Domestic and Sexual Abuse to develop a "red flags" public education campaign to raise awareness that:

- Stalking is an indicator for escalating violence;
- Extreme jealousy that is acted upon is a sign of control and abuse in a relationship;
- Emotional and verbal abuse is serious and can ultimately end in homicide; threats to kill must be taken seriously;
- Increased isolation of a victim signals increased control by an abuser;
- Firearms are frequently the weapon of choice in a homicide and/or suicide, so access to firearms may increase the likelihood of a death occurring;
- While substance abusers may also commit domestic violence, it is important to realize that alcohol and drugs do not cause domestic violence, and it is important for everyone involved to follow-up with an abuser once the party is sober;
- Leaving or ending a relationship is an especially dangerous time so it is important to increase awareness on how to end a relationship safely; and
- Older and dependent adults are widely underreported victims, with an estimated 12,000 cases annually in Maine. In these cases, abusers can include intimate partners, adult children, grandchildren and other caregivers.

Many local and regional campaigns already exist to offer practical tools to bystanders wanting to help. The Abused Women's Advocacy Project (AWAP), in Androscoggin County, for example, recently developed an effective media campaign to address this issue.

We recognize that public awareness efforts geared towards educating individuals on issues surrounding sexual violence and shifting social norms are one way to broadly reach many audiences who may not otherwise receive these important messages. Public awareness campaigns can serve to shift the way people look at sexual violence, and can also be successful in getting individuals actively involved in the effort to end sexual assault and abuse. Ensuring that all people are aware of the services available to them

through the sexual assault support centers in their communities will help victims and those close to them through their healing processes, and may lessen the chance of future victimizations.

Focusing on these ideal outcomes, a targeted public awareness campaign—conducted statewide and coordinated through the Maine Coalition Against Sexual Assault—should be designed to:

- Show the true prevalence of sexual assault and abuse in all communities;
- Eliminate victim blaming attitudes and perpetrator stereotyping;
- Ensure that people always believe and support victim/survivors;
- Demonstrate how one person *can* make a difference in ending sexual violence; and
- Ensure that individuals are aware of the services available through the sexual assault support centers in their communities, and how to utilize these services.

## **B. Training for Professionals**

We also recommend that communities insist that employers provide training for medical, mental health and social workers on the issues and local services for domestic and sexual abuse. Part of this training and community awareness raising must include the fact that Maine’s elderly can also be victims of domestic violence and sexual abuse.

We recognize that training and education about domestic abuse issues for professions, such as medical and mental health, criminal justice, education, social services, church, and community organizations, is an essential component of a comprehensive coordinated community response to domestic violence. Such education can help to:

- Improve institutional responses to victims;
- Raise awareness of society’s misplaced acceptance of violence; and
- Provide information about available services and resources.

To reach these training goals, we recommend that the Maine Coalition to End Domestic Violence and its member projects coordinate training efforts that will offer professionals workshops, conferences, speakers, and educational materials that address the issue of domestic abuse throughout the state of Maine. Additionally, we encourage that these professionals place a high priority on attending the trainings and obtaining the associated educational and outreach materials.

We recommend that training for certain professionals on issues surrounding sexual assault be implemented to ensure that victims have one more possible avenue for support and information. Such professionals would include medical practitioners, substance abuse and mental health providers, social workers, clergy, teachers, and other professionals within civic groups who frequently deal with the public. Because these professionals often have confidential and trusting relationships with the people they serve, they are in

great positions to offer disclosing victims the information and resources needed when a disclosure happens. This is especially true for professionals who regularly work with children. Such education will also help ensure that, when a victim makes the hard decision to talk about abuse with someone, the person receives a supportive response.

Professionals in the law enforcement and legal fields often deal with victims after abuse has been reported. It is ideal that these professionals be trained to best respond to the reports, as well as how to treat victim/survivors through a very difficult time.

These trainings would educate professionals on some key issues, such as:

- Identifying risk factors and the warning signs of sexual assault and abuse;
- Intervention techniques and how to respond to disclosures from victim/survivors;
- Understanding the effects of sexual violence on victim/survivors; and
- Being aware of the breadth of services available through Maine's ten sexual assault support centers.

Again, we strongly encourage that professionals make every effort to take advantage of these important training opportunities.

### **C. Education / Youth**

Education is an important element of prevention. Greater collaboration with our public schools would increase awareness of domestic and sexual abuse. Most schools have some form of prevention curriculum for a variety of topics. We urge the addition of domestic violence, sexual assault and dating violence to school prevention curricula. Also, we recommend that schools utilize the prevention educators and the programs available through their local sexual assault support centers and domestic violence projects as well as Maine's civil rights teams. These providers are available to provide specialized research-based programming within the schools specific to this complicated issue.

We recommend that schools provide training and information to teachers, staff and parents on the issues of bullying, harassment, domestic violence and sexual assault. Maine's domestic violence projects and sexual assault support centers are available to assist in providing such training.

School officials should encourage the involvement of men in innovative school-based and community education efforts directed at youth, including, but not limited to, working with programs such as "Boys to Men" and community mentoring. Positive role models can have tremendous influence in shaping values and behavior.

## **IV. INFORMATION GATHERING/SHARING AND TECHNOLOGY**

All segments of the criminal justice system benefit from having complete and accurate criminal history information concerning criminal defendants and persons subject to protection from abuse orders. The law enforcement officer giving a summons or making an arrest; the bail commissioner or judge setting bail; the prosecutor advocating for bail conditions or sanctions; the judge imposing sentence or issuing a protection order – all benefit from this information, because it enables these crucial players in the justice system to make decisions and fashion solutions appropriate to the offender, the situation, and, most importantly, the safety of the victim.

We need to improve information sharing between criminal justice agencies so that the best possible decisions can be made about defendants. Since all sections of the criminal justice system in Maine use computer systems to collect and provide information, improving the communication between these systems is vital.

We recognize that information sharing between criminal justice agencies has improved greatly in the last several years in Maine.

A large, comprehensive database called the Criminal History Records Information (CHRI) database has been created by the Department of Public Safety State Bureau of Identification to collect and share criminal histories around the state, and a great deal of information is now immediately available that has not been easily available in the past.

Despite this significant progress, however, many small, correctable problems are causing information breakdowns. We examined the CHRI database, other criminal justice information systems, and other information technology issues affecting the welfare of victims of domestic and sexual abuse. The results of our efforts are embodied in the following recommendations:

#### **A. Criminal History Records Information (CHRI) Database**

All parts of the criminal justice system should accept the State Police CHRI database as a vitally important element of the criminal justice system and should fully participate in having dispositions of criminal cases entered into that database

This database is not receiving a very high percentage of the current criminal case dispositions because the Arrest Tracking Numbers and the Charge Tracking Numbers (ATN and CTN) are not being properly entered and are not properly traveling with the case from arrest through disposition. All parts of the criminal justice system need to use properly the ATN/CTN numbers, which make that database work.

The Department of Public Safety, which operates the CHRI database, needs to make ATN/CTN numbers easy to obtain and move through the system. The Department further needs to provide training and technical assistance to those whose participation is needed. Finally, the Department needs to do the liaison work with those agencies to gain their confidence and their participation. There is a substantial need for the Department of

Public Safety to send a person with communications skills and technical skills into the field and do this work with those whose cooperation and participation is needed.

## **B. Access To Data**

Agencies within the criminal justice system need easier access to important information that exists on current databases throughout the state. Personnel at all levels of the system, including law enforcement, bail commissioners, prosecutors, and court personnel should receive training and technical assistance to access the databases that contain the criminal history, protection orders, warrants, and other relevant information

This work should be more than theoretical “how to” training sessions. It should include site visits to review the computer systems in those agencies, and training and technical assistance to make the databases easy to access on the agency’s existing systems, wherever possible. There is a substantial need for the Department of Public Safety to utilize a person with communications and technical skills to go into the field and provide the services described in this recommendation. This may require additional resources.

## **C. Technology Links**

The Department of Corrections (DOC) and others in the criminal justice community need to be linked.

The Corrections Information System (CORIS) is a new comprehensive information system recently developed for the Department of Corrections as a case management system and information database. There is information in that database which would be very helpful to other law enforcement agencies. Similarly, probation officers would benefit greatly by having access to the criminal history database information described above.

## **D. Increased Electronic Access To Protection From Abuse Orders**

Access to protection from abuse order information in existing databases should be expanded, to enhance victim safety and offender accountability.

The protection order information in the state database that is presently available to those who work in the criminal justice system only includes those protection orders that have been served and are presently in effect. The database does not display protection orders that are no longer in effect. It also does not display protection orders granted by the court until they are served on the defendant. We recommend that expired orders and orders granted by the court but not yet served be available online to law enforcement officers, bail commissioners, prosecutors, and those working in the courts, to allow them to more



effectively determine the appropriate measures of accountability for domestic violence offenders.

### **E. Role of MCJUSTIS**

The Maine Criminal Justice Information System (MCJUSTIS) Policy Board should become an effective and influential criminal justice information policy board. It should have the legal authority to set standards for information systems throughout the criminal justice system. It should be staffed by an executive director, a skilled technology person, and administrative/clerical support.

The MCJUSTIS Policy Board is a group of representatives from various criminal justice and other agencies that has operated for many years to develop and advance information systems in the criminal justice system in Maine. The MCJUSTIS Policy Board has been hampered by a lack of funded staff support, as well as a lack of authority. MCJUSTIS needs professional and support staffing to create the organization and administration between the various agencies and to help make decisions about the recommendations stated herein. MCJUSTIS should also be given the legal authority to set statewide standards and priorities that must be met by the criminal justice community. The policies and priorities of MCJUSTIS should govern the information initiatives of all parts of the criminal justice community and provide guidance to the Legislature and grant administrators as they appropriate funds for criminal justice technology.

### **F. Data Gathering**

Prevalence data on the existence of domestic and sexual abuse should be collected through the Bureau of Health annual survey. The Maine Bureau of Health should include the Sexual Violence Optional Module and Intimate Partner Violence Optional Module in the annual Behavioral Risk Factor Surveillance System (BRFSS) survey in order to gain a better understanding of the occurrence of domestic abuse and sexual violence in Maine.

Maine has very little prevalence data about domestic or sexual abuse. It relies on statistics about reported events: the FBI's Uniform Crime Report (UCR), the U.S. Department of Justice's National Crime Victimization Survey (NCVS), and Maine's sexual assault crisis centers' and domestic violence projects' service statistics to understand the scope of Maine's problem. In recognizing that sexual and domestic abuse are underreported crimes, we need to have a better grasp on the scope of the problem as a baseline.

The BRFSS survey is conducted annually in the State of Maine. It is done throughout the country, and is coordinated by the Center for Disease Control. It is the largest continuously conducted phone survey in the world and serves to evaluate high priority health issues by age, gender, income, race and ethnicity. The sexual violence and intimate partner violence modules of this survey help monitor trends, identify groups at greatest risk, and evaluate the impact of policy change and prevention data. Including these

modules in Maine's next version of the survey will help to address the gap in prevalence information. The survey is affordable, and would only cost two thousand dollars to complete.

### **G. Use Of Arrest Tracking Numbers (ATNs)**

In order to assist in the collection of data concerning domestic abuse, law enforcement should always, when assigning a charge sequence code or retrieving an ATN, use the domestic violence indicator when domestic violence is a part of the case. This indicator should travel through the system so that it can end up in the CHRI database at the time of the disposition of the case.

Although crimes in Maine are not classified by the family or household relationship between accused and victim, the CHRI database is set up to allow for an indication that the offense was a domestic violence offense by the addition of an indicator (the letter D) at the end of the sequence number. This information can assist in the collection of data about domestic abuse cases that go through the criminal justice system. Because the database is presently capable of receiving and displaying this information, it is important that the domestic violence indicator be used when applicable and travel through the system into the CHRI database.

### **H. Sex Offender Registry**

Local law enforcement agencies that maintain a public website should provide a link to the state Sex Offender Registry, and avoid providing public access to their own sex offender registries. There is a concern that information posted on local law enforcement websites may be outdated or inaccurate. It is important that the general public rely on the state website for the most current registry information. Eliminating public access to those local websites would require people to use the state Sex Offender Registry, which is updated daily and provides the most accurate record of registered sex offenders in Maine. Local law enforcement agency websites can provide a tremendous benefit to victims by simply having a link on the local website to the state Sex Offender Registry.

### **I. Recommendations**

We make the following recommendations for improving the addition of information to the criminal history database and to other existing databases in order to ensure that those databases include relevant data and thereby provide complete, accurate and current information to criminal justice agencies on offenders:

- Law enforcement, bail commissioners, prosecutors, and the court system's clerks must understand the tremendous importance of the Arrest Tracking Number (ATN) and the Charge Tracking Number (CTN).

- All agencies must retrieve and enter ATN/CTNs whenever needed.
- All people who use ATNs and CTNs must access the applicable Criminal Code provisions.
- The State Police database should print the ATN and CTN on its incident reports.
- All components of the criminal justice database should be linked so that common data can be transmitted electronically instead of manually.
- A clear indicator of domestic violence should be on the face sheet of all reports transmitted between criminal justice agencies. This could involve using a DV modifier at the end of the ATN number, tracking the checkmarks in the DV box on the summonses, or some other method. This will require a consensus within the criminal justice system as to what constitutes a crime of domestic violence.
- The Department of Corrections system should be linked to or interface with the SBI system.

A good way of addressing the above suggestions is by the creation of a position within the Department of Public Safety, to be filled by a person with the communications and technical skills necessary to encourage collaboration between criminal justice agencies and provide technical assistance to improve information sharing, both electronic and on paper, among those agencies.

This report makes the following recommendations for improving the retrieval of criminal history, protection order history, and other relevant history from existing databases:

- Participants in the criminal justice system and the courts must understand the purpose of the information systems and how those systems will benefit them. Training should be provided and updated regularly to all criminal justice agencies and court staff. Persons who use the system regularly should be required to attend.
- SBI should develop a “reader friendly” summary sheet of the criminal history report.
- Bail commissioners, prosecutors, judges, prosecution-based victim witness advocates and law enforcement officers must have access to and use both conviction and non-conviction data. See 16 M.R.S.A. § 611 (2), (9).
- Prosecutorial staff should have free account numbers so they can access the public criminal history records on the Internet. Although this information contains only convictions, this report is easier to read than the current SBI report. However, the limited nature of this information should be noted and pointed out to courts invited to rely on this information.
- Bail conditions and parole information should be available to all criminal justice agencies.
- Information on prior protections from abuse orders should be available at least to law enforcement.
- Law enforcement should be able to access criminal history records on the laptops in their cruisers.
- A criminal justice information broker system should be created to facilitate sharing data between all criminal justice agencies.

## **V. SYSTEMS COORDINATION**

### **A. Judicial System**

In order to devote the necessary attention to the issues presented by domestic and sexual abuse, courts need additional time and resources for domestic violence and sexual assault cases, especially those involving children. The Domestic Violence Case Coordination Pilot Project, with its initial sites in Portland and York District Courts, represents a huge step forward in how interlocking issues previously addressed by separate courts can be addressed by a more fully informed judiciary on a consolidated basis. The courts need additional resources to continue and to expand such focused dockets throughout the state.

### **B. Statewide Coordination / Planning**

The State of Maine should identify or create a statewide sexual and domestic violence coordinator position, either in the Department of Health and Human Services or the Department of Public Safety. As we continue to evolve in our understanding of the dynamics and appropriate responses, our recommendations and laws should likewise evolve. Such a position is therefore essential to keep pace with these changes and to oversee the implementation of recommendations, laws and Executive Orders in this critical area. The position should work closely with the Commission on Domestic and Sexual Abuse as well as the Maine Coalition Against Sexual Assault and the Maine Coalition to End Domestic Violence to improve Maine's coordinated community response to these crimes.

Knowledge of elder abuse issues would be a required asset for this position, as elder abuse intersects and overlaps with domestic violence and sexual assault issues. A majority of Advisory Council and Commission members identify this particular recommendation as a high priority.

### **C. Technology**

We need to continue to upgrade the technological infrastructure and provide adequate support so that critical information flows seamlessly and quickly to police, bail commissioners, prosecutors, probation officers and judges when vital decisions are made on domestic and sexual violence cases.

## **CONCLUSION**

Our focus on the Bail Code, amendments to the laws concerning the protection from abuse process, prevention, training, public and media education, offender accountability, victim safety, systems coordination, information sharing, and technology is meant to spotlight those areas where changes for the good can be made. It is not our intention to overlook the many positive changes that have been made within the past generation by hundreds of dedicated public employees and private individuals. It is, however, our hope that the recommendations contained in this report will lead to concrete action over the next several months, as resources allow, and will serve as a blueprint for the future.

We recognize that there are many other ideas for positive change in this volatile area. We also acknowledge that our understanding of these issues, like the issues themselves, will continue to evolve with time, experience, study and additional data. To that end, we are prepared to continue working to improve Maine's ability to prevent and respond to domestic and sexual abuse, and we look forward to working with the Governor to make the State we call home a safer place in which to live, work and grow.

Respectfully submitted,

Michael P. Cantara  
And  
Elizabeth Ward Saxl  
Co-chairs

# APPENDIX A

18 FY 04/05  
June 23, 2004

## **AN ORDER TO ESTABLISH THE GOVERNOR'S ADVISORY COUNCIL ON THE PREVENTION OF DOMESTIC AND SEXUAL VIOLENCE AND THE PROSECUTION OF RELATED CRIMES IN MAINE**

**WHEREAS**, domestic and sexual violence are widespread community problems, affecting Maine families regardless of geography, income or education;

**WHEREAS**, the effects of domestic and sexual violence are suffered not only by victims, who are robbed of their dignity and sense of security, but also by their children, families, those that care about them and the community as a whole;

**WHEREAS**, because domestic and sexual violence are not only crimes, but violations of a person's basic rights as a human being, all victims deserve our support and protection, and all offenders must be held accountable;

**WHEREAS**, over many years, groups on the community, municipal and state levels have contributed invaluable to the prevention of domestic and sexual violence and the prosecution of related crimes in Maine and to raising public awareness of these critical issues;

**WHEREAS**, domestic violence may incorporate violence of a sexual nature;

**WHEREAS**, the number of repeat offenses by known domestic violence perpetrators comprises a significant portion of the total number of offenses committed across the state;

**WHEREAS**, victims of domestic violence, particularly those who have sought assistance from the state's law enforcement, judicial and social services systems, are entitled to protection from future abuse at the hands of known domestic violence offenders;

**WHEREAS**, victims of sexual violence, particularly those who have sought assistance from the state's law enforcement, judicial and social services systems, are entitled to recognition and protection;

**WHEREAS**, improvements can be made to the depth and scope of protection provided to victims of both domestic and sexual violence;

**WHEREAS**, comprehensive information pertaining to domestic and sexual violence perpetrators and instances of abuse is integral to the prevention of violence, particularly the prevention of repeat attacks by known offenders;

## APPENDIX A

**WHEREAS**, the compilation, availability and effective use of such information depends upon coordination among law enforcement agencies, prosecutors, the Office of the Attorney General, courts, advocacy programs, social service agencies, schools, health care providers, and employers;

**WHEREAS**, Title 19-A M.R.S.A. § 4013 created the Maine Commission on Domestic and Sexual Abuse (the “Commission”) to advise and assist the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse;

**WHEREAS**, since 1990 the Commission has demonstrated knowledge and expertise in the issues surrounding domestic and sexual violence and has produced numerous reports and made recommendations relevant to the prevention of domestic and sexual violence and the prosecution of related crimes; and

**WHEREAS**, State agencies, the courts, academic institutions and the Commission have much to gain from a comprehensive reassessment of the State’s approach to the prevention and prosecution of domestic and sexual violence.

**NOW, THEREFORE**, I, John E. Baldacci, under the power vested in me as Governor of the State of Maine, do hereby create the Governor’s Advisory Council on the Prevention of Domestic and Sexual Violence and the Prosecution of Related Crimes in Maine. (the “Council”). The Council shall be comprised of the Chair of the Commission; the Commissioner of the Department of Public Safety, or his designee; the Commissioner of the Department of Administrative and Financial Services, or her designee; the State Court Administrator, as made available by the Chief Justice of the Supreme Judicial Court; and, a member of the faculty of the University of Maine School of Law. The chair of the Council shall be the chair of the Commission. The Council shall:

1. Survey the status of the prevention of domestic and sexual violence and the prosecution of related crimes in Maine.
2. Study the use of information technology infrastructure to facilitate the compilation, availability and flow of information necessary to the prevention of domestic and sexual violence and the prosecution of related crimes.
3. Examine the impact that state law, court rules, and sentencing and bail laws have on the effectiveness of the prevention of domestic and sexual violence and the prosecution of related crimes.
4. Recommend improvements to the prevention of domestic and sexual violence and the prosecution of related crimes based upon the results of the Commission’s survey and its study of the use of information technology infrastructures and the impact of state law, court rules and sentencing and bail policies.

## APPENDIX A

5. Recommend educational mechanisms to enhance institutional understanding of the significance of information pertaining to domestic and sexual violence perpetrators and instances and patterns of abuse.
6. Develop community empowerment strategies and community-based responses to enhance and supplement traditional criminal legal approaches to combating domestic and sexual violence.
7. Issue to the Governor no later than February 14, 2005, a comprehensive report containing the Council's findings and recommendations on the above issues.

The Council, as it carries out its mandate under this Executive Order, will be given administrative support out of existing resources by the Department of Public Safety, the Office of the Governor, and the Department of Administrative and Financial Services. The members of the Council shall serve without pay, except as otherwise provided in law.

The effective date of this Executive Order is June 23, 2004.

---

John E. Baldacci, Governor



# APPENDIX B

3/3/05

## AN ACT TO AMEND THE SENTENCING LAWS

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners was established by the Legislature to examine the factors leading to prison overcrowding, the impact of current sentencing laws, the use of alternate sentences and means to reduce recidivism, in particular that caused by mental illness and substance abuse; and

**Whereas,** the Commission's recommendations to create sentencing alternatives for certain classes of offenses were enacted, however, greater judicial discretion is necessary to deter future criminal conduct or for the safety of a victim of the crime; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health, and safety; now, therefore,

### **Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 17-A MRSA § 1152, sub-§ 2 is amended to read:

2. Every natural person convicted of a crime shall be sentenced to one of the following:

- A. Unconditional discharge as authorized by chapter 54-D;
- B. A split sentence of imprisonment with probation as authorized by chapter 49;
- C. A fine, suspended in whole or in part, with, at the court's discretion, probation as authorized by chapter 49;
- D. A suspended term of imprisonment with probation as authorized by chapter 49;
- E. A split sentence of imprisonment, the initial unsuspended portion of which is served in whole or in part with intensive supervision, followed by probation as authorized by chapter 52;
- F. A term of imprisonment as authorized by chapter 51;
- G. A fine authorized by chapter 53. Such a fine may be imposed in addition to the sentencing alternatives in paragraph B, D, E, ~~and F~~, H, I, L and M;

- H. A county jail reimbursement fee as authorized by chapter 54-B;
- I. A specified number of hours of community service work as authorized by chapter 54-C;
- J. Deferred disposition as authorized by chapter 54-F;
- K. A fine, suspended in whole or in part, with, at the court's discretion, administrative release as authorized by chapter 54-G; ~~or~~
- L. A suspended term of imprisonment with administrative release as authorized by chapter 54-G; ~~or~~
- M. A split sentence of imprisonment with administrative release as authorized by chapter 54-G.

Sec. 2. 17-A MRSA § 1172, sub-§ 1 is amended to read:

1. When practicable, the attorney for the State shall make a good faith effort to inform each victim of a crime of the following:

- A. The details of a plea agreement, including a deferred disposition, before it is submitted to the court;
- B. The right to comment on the plea agreement, including a deferred disposition, pursuant to section 1173;
- B-1. The proposed dismissal or filing of an indictment, information or complaint pursuant to the Maine Rules of Criminal Procedure, Rule 48, before that action is taken;
- C. The time and place of the trial;
- D. The time and place of sentencing; ~~and~~
- E. The right to participate at sentencing pursuant to section 1174-; and
- F. The right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release, pursuant to section 1174-A.

Sec. 3. 17-A MRSA § 1174-A is enacted to read:

§ 1174-A. Termination or conversion procedure

When the attorney for the State receives notice of a motion seeking early termination of probation or early termination of administrative release or seeking to convert probation to administrative release, the attorney for the State shall disclose to the court any and all attempts made to notify each victim of the motion to terminate or convert and any objection to the motion by a victim. If a hearing is held on the motion by the court and the victim is present in court, the victim may address the court at that time.

Sec. 4. 17-A MRSA § 1201, sub-§1, ¶ A-1 is amended to read:

A-1. ~~The conviction is for a Class D or Class E crime other than: any Class D crime committed against a family or household member under Chapter 9 or 13 or section 506 B, 554, 555 or 758; any Class D or Class E crime under chapter 11 or 12; a Class D or Class E crime under section 556, 854, excluding subsection 1, paragraph A; subparagraph (1), or 855; and the Class D or Class E crime under Title 29 A, section 2411, subsection 1 A, paragraph B. As used in this paragraph, “family or household member” has the same meaning as in Title 19 A, section 4002, subsection 4;~~

(1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode, and as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime committed against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758. As used in this paragraph, “family or household member” has the same meaning as in Title 19-A, section 4002, subsection 4;

(3) A Class D or Class E crime in chapter 11 or 12;

(4) A Class D crime under section 210-A;

(5) A Class D or Class E crime under section 556, 854, excluding subsection 1, paragraph A, subparagraph (1), or 855;

(6) A Class D crime in chapter 45 relating to a schedule W drug;

(7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B.

Sec. 5. 17-A MRSA § 1202 (2) is amended to read:

2. During the period of probation specified in the sentence made pursuant to subsection 1, and upon application of a person on probation or the person’s probation officer, or upon its own motion, the

court may, after a hearing upon notice to the probation officer and the person on probation, modify the requirements imposed by the court or a community reparations board, add further requirements authorized by section 1204, or relieve the person on probation of any requirement imposed by the court or a community reparations board that, in its opinion, imposes on the person an unreasonable burden. If the person on probation can not meet a requirement imposed by the court or a community reparations board the person shall bring a motion under this subsection.

Notwithstanding this subsection, the court may grant, ex parte, a motion brought by the probation officer to add further requirements if the requirements are immediately necessary to protect the safety of an individual or the public and if all reasonable efforts have been made to give written or oral notice to the person on probation. Any requirements added pursuant to an ex-parte motion do not take effect until written notice of the requirements, along with written notice of the scheduled date, time and place when the court shall hold a hearing on the added requirements, is given to the person on probation.

Sec. 6. 17-A MRSA § 1202, sub-§ 2-A is amended to read:

2-A. Once the period of probation has commenced, on ~~application~~ motion of the probation officer, or of the person on probation, or on the court's own motion, the court may convert at any time a period of probation for a Class D or Class E crime or a Class C crime under Title 29-A, section 2557 to a period of administrative release. A conversion to administrative release may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. ~~A conversion to administrative release may not be ordered upon the motion of the person on probation unless notice of the motion is given to the probation officer by the person on probation.~~ The provisions of Chapter 54-G apply when probation is converted to administrative release. Conversion to administrative release serves to relieve the person on probation of any obligations imposed by the probation conditions.

Sec. 7. 17-A MRSA § 1202, sub-§ 3 is amended to read:

3. Once the period of probation has commenced on ~~application~~ motion of the probation officer, or of the person on probation, or on its own motion, the court may terminate at any time a period of probation and discharge the convicted person at any time earlier than that provided in the sentence made pursuant to subsection 1, if warranted by the conduct of such person. A termination and discharge may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. ~~A termination and discharge may not be ordered upon the motion of the person on probation unless notice of the motion is~~

~~given to the probation officer by the person on probation.~~ Such termination and discharge serves to relieve the person on probation of any obligations imposed by the sentence of probation.

Sec. 8. 17-A MRSA § 1348-A, sub-§ 3 is enacted to read:

3. During the period of deferment, if the person can not meet a deferment requirement imposed by the court, the person shall bring a motion pursuant to subsection 2.

Sec. 9. 17-A MRSA § 1348-B, sub-§ 1 is amended to read:

1. Unless a court hearing is sooner held under subsection 2, at the conclusion of the period of deferment, after notice, a person who was granted deferred disposition pursuant to section 1348-A shall return to court for a hearing on final disposition. If the person demonstrates by a preponderance of the evidence ~~court finds~~ that the person has complied with the court-imposed deferment requirements, the court shall impose a sentence of unconditional discharge under section 1346 sentencing alternative authorized for the crime to which the person pled guilty and consented to in writing at the time sentencing was deferred or as amended by agreement of the parties in writing prior to sentencing, unless the attorney for the State, prior to sentence disposition, moves the court to allow the person to withdraw the plea of guilty. Except over the objection of the defendant, the court shall grant the State's motion. Following the granting of the State's motion, the attorney for the State shall dismiss the pending charging instrument with prejudice. If the court finds that the person has inexcusably failed to comply with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty.

Sec. 10. 17-A MRSA § 1348-B, sub-§ 2 is amended to read:

2. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose sentence. Following notice and hearing, if the ~~court finds~~ attorney for the State proves by a preponderance of the evidence that the person has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the period of deferment and impose a sentence alternative authorized for the crime to which the person pled guilty. If the court finds that the person has not excusably failed to comply with a court-

imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter.

Sec. 11. 17-A MRSA § 1348-B(5) is amended to read:

5. A summons ~~must~~ may be used to order a person who was granted deferred disposition pursuant to section 1348-A to appear for a hearing under this section. ~~If the person can be located and served with a summons, the attorney for the State may not commence a hearing under this section by having the person arrested, except that a person who fails to appear as required may be arrested pursuant to a bench warrant or an order of arrest. If the person fails to appear after having been served with a summons, the court may issue a warrant for the arrest of the person.~~

Sec. 12. 17-A MRSA §1348-B(6) is repealed.

Sec. 13. 17-A MRSA §1348-B(7) is enacted to read:

If during the period of deferment, the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1348-A has violated a court-imposed deferment requirement, the attorney for the State may apply for a warrant for the arrest of the person.

Sec. 14. 17-A MRSA § 1349 is amended to read:

1349. Eligibility for sentence alternative that includes period of administrative release

A person who has been convicted of a Class D or Class E crime or a Class C crime under Title 29-A, section 2557 may be sentenced to a sentence alternative under section 1152 that includes a period of administrative release, unless:

- A. The statute that the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person must be sentenced to the imprisonment and required to pay the fine authorized therein;
- B. The court sentences the person to a sentencing alternative under section 1152 that includes a period of probation; or
- C. The court finds that such a sentence would diminish the gravity of the crime for which that person was convicted.

Sec. 15. 17-A MRSA § 1349-A, sub-§ 2-A is enacted to read:

2-A. During the period of administrative release, if the person can not meet a requirement of administrative release imposed by the court, the person shall bring a motion pursuant to subsection 2.

Sec. 16. 17-A. MRSA § 1349-B, sub-§1 is amended to read:

1. The court may sentence a person to a term of imprisonment not to exceed the maximum term authorized for the Class D or Class E crime or the Class C crime under Title 29-A, section 2557, suspend the ~~entire~~ term of imprisonment in whole or in part and accompany the suspension with a period of administrative release not to exceed the one year authorized under section 1349-A, subsection 1.

Sec. 17. 17-A MRSA § 1349-D is amended to read:

1349-D. Commencement of administrative release revocation proceeding.

1. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, the attorney for the State may file a motion with the court seeking to revoke administrative release, ~~and cause a summons to be delivered to the person placed on administrative release ordering that person to appear for a court hearing on the alleged violation.~~ The motion must set forth the facts underlying the alleged violation. ~~The summons must be in the same form as a summons under section 12505-B, subsection 2 except that the summons must include the signature of a law enforcement officer other than a probation officer.~~

1-A. A summons may be used to order a person who was placed on administrative release to appear on a motion to revoke administrative release.

2. A person placed on administrative release appearing on a motion to revoke administrative release pursuant to a summons must be afforded an initial appearance as provided in section 1205-C, subsection 4.

3. If the person placed on administrative release fails to appear in court after having been served with a summons, the court may issue a warrant for the arrest of the person. After arrest of the person, the court shall afford the person a ~~preliminary hearing~~ an initial appearance as provided in section 1205-C, subsection 4, and if retained in custody, section 1205-C, subsection 3 applies.

4. ~~If the person placed on administrative release can be located and served a summons, the attorney for the State may not commence the~~

~~administrative release proceeding by having the person arrested. However, if the person can not, with due diligence, be located, the attorney for the State shall file a written notice of this fact with the court and obtain a warrant of arrest under Rule 41 of the Maine Rules of Criminal Procedure. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, the attorney for the State may apply for a warrant for the arrest of the person.~~ Unless sooner released, the court shall provide the person with an initial appearance on the revocation of administrative release within 14 days after arrest. A copy of the motion must be furnished to the person prior to or at the initial appearance. The initial appearance is as provided in section 1205-C, subsection 4. Bail is as provided in Section 1205-C, subsections 5 and 6.

Sec. 18. 19-A MRSA § 4002 sub-§ 4 is amended to read:

4. **Family or household members.** “Family or household members” means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, for the purpose of this chapter and title 17-A sections 1201, 1202, and 1253 only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute “living as spouses.” For purposes of this subsection and title 17-A sections 1201, 1202, and 1253, “domestic partners” means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other’s welfare.

Sec. 19. 34-A MRSA § 5402, sub-§ 3, ¶ A-1 is enacted to read:

A-1. Provide for necessary assessment and supervision procedures and direct the use of adult probation resources and staff to the management of adult probationers with a high risk of reoffending;

Sec. 20. 34-A MRSA § 5404, sub-§ 3, ¶ A is amended to read:

A. Supervise the probation, parole, or intensive supervision of each person placed under the officer’s supervision to assure that departmental resources are directed to the management of persons with a high risk of reoffending.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.



## APPENDIX C

<b>WHAT'S THE DIFFERENCE BETWEEN ANGER MANAGEMENT AND A STATE CERTIFIED BATTERER INTERVENTION PROGRAM?</b>
--

	<b>ANGER MANAGEMENT PROGRAMS</b>	<b>STATE CERTIFIED BATTERERS INTERVENTION PROGRAM</b>
<b>ARE PROGRAMS STATE CERTIFIED?</b>	No	Yes. Certification is administered by Maine Department of Corrections.
<b>WHO IS SERVED BY THE PROGRAMS?</b>	Perpetrators of stranger or non-intimate violence.	Specifically designed to work with domestic violence offenders.
<b>HOW LONG ARE THE PROGRAMS?</b>	Usually 8-15 weekly sessions.	48 weeks.
<b>ARE PROGRAMS MONITORED BY A STATE AGENCY?</b>	No	Yes. Each program must have a working relationship with the local domestic violence project, probation and the courts.
<b>DO PROGRAMS CONTACT VICTIMS?</b>	No	Yes. Programs are required to contact victims in writing. They are made aware of enrollment of perpetrators and how to access services through the local DV projects.
<b>ARE PROGRAMS LINKED WITH LOCAL DOMESTIC VIOLENCE PROJECTS?</b>	No	Yes. Each program must attend regular supervision provided by the local DV project to discuss class content.
<b>WHAT IS THE EMPHASIS OF THE INTERVENTION?</b>	Violence is seen as a momentary outburst of anger. Perpetrators are taught techniques like "time outs", relaxation methods, and coping skills.	Physical violence is seen as one of many forms of abusive behaviors chosen by batterers to control their partners, including physical, sexual, verbal, emotional, and economic abuse. Men are taught that stress, a life crisis, and chemical dependency are not causes of DV, and that abuse is a choice a batterer makes to gain and maintain an imbalance of power and control within the relationship.
<b>ARE GROUP FACILITATORS TRAINED ABOUT DOMESTIC VIOLENCE?</b>	Subject to agency discretion.	State standards require that all facilitators receive training in at least 1 of 3 nationally recognized models.

Adapted by the Violence Intervention Partnership of Cumberland County from the Massachusetts Department of Public Health.