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Batterer Intervention Program (BIP)

A Report to the 126th Legislature (Second Session)

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BATTERER INTERVENTION PROGRAMS (BIP)

A Report to the 126th Legislature (second session)

As a result of recommendations made by the Legislative Commission to Study Domestic Violence to the 120th Session of the Maine State Legislature, the Department of Corrections Office of Victim Services is required to report annually to the legislature on the performance of Batterer Intervention Programs in Maine. This is the eleventh annual report.

The state standards for Batterer Intervention Programs require the Department of Corrections to monitor each program, which is done on an annual basis. There were no significant issues identified as a result of the monitoring done in 2013.

Previously there were concerns about equal protection issues with the lack of certified batterer intervention programs for women convicted of domestic violence. In a decision by the Maine Supreme Judicial Court on December 6th, 2012 in the case of State of Maine v. Christopher Mosher, the Court addressed these concerns. (Attachment A) As a response to this case the Governor's Office and the Department of Corrections, along with the Program subcommittee of the Maine Commission on Domestic and Sexual Abuse, proposed a revision of the Batterer Intervention Program Standards to reflect gender neutrality. The standard changes were approved on August 11, 2013. (Attachment B reflects the current revised standards.)

As a part of the revised standards female Batterer Intervention Programs could be certified. In 2013 the Maine Department of Corrections certified seven female Batterer Intervention programs in the State of Maine, and five programs remained certified at the end of 2013. Two programs were de-certified due to not meeting the training requirement outlined in the current standards. There are currently twelve certified male Batterer Intervention Programs. (Attachments C, D and E reflects the current Certified Programs for men and women in the State of Maine and the statistics for men and women served in a Certified Batterer Intervention Programs.)

Since September of 2004, the Department of Corrections has maintained statistics comparing the number of domestic violence offenders serving a term of probation with a condition of anger management, psychological counseling, or domestic abuse counseling to the number of domestic violence probationers with the condition of attendance at a certified batterer intervention program. A review of male domestic violence offenders statewide in 2013 revealed nearly three quarters of the offenders were ordered to attend these other types of counseling rather than a batterer intervention program. (Female offenders were not reviewed since female Batterer Intervention Programs did not start until mid-year.) Research indicates that battering is about power and control and not about anger issues or typical psychological issues. There are several domestic violence offenders sentenced to a term of deferred disposition, these offenders are not reflected in the chart. (Attachment F represents the number of current male probationers with anger management counseling, psychological counseling, domestic abuse counseling, and/or a certified batterer intervention program.) (An offender might have more than one condition.)

Appropriate batterer intervention programs with oversight and monitoring is an essential component of a coordinated community response for domestic violence. The reason for batterer intervention programs still exists in every county in Maine. Domestic violence is a significant factor in approximately half of the homicides committed in Maine.

Attachment A

Decision: 2012 ME 133

Docket: Ken-12-79

Argued: November 7, 2012

Decided: December 6, 2012

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

STATE OF MAINE

v.

CHRISTOPHER L. MOSHER

PER CURIAM

[¶1] Christopher L. Mosher appeals from a judgment of conviction of domestic violence assault (Class D), 17-A M.R.S. § 207-A(1)(A) (2011), entered in the trial court (*Mulhern, J.*) following a nonjury trial. Mosher does not contest his conviction; however, he argues that the sentence, which included a period of two years of probation with a requirement that Mosher participate in a certified batterers' intervention program, violated the Equal Protection clauses of the U.S. Constitution, U.S. Const. amend. XIV, § 1, and the Maine Constitution, Me. Const. art. I, § 6-A.

[¶2] Mosher contends that his sentence violated equal protection principles because, he asserts, a woman convicted of the same crime could not be sentenced to a term of probation of more than one year. According to Mosher, the court could not impose the same sentence on a female defendant for the same crime.

Because there is no factual record from which we can evaluate Mosher's and the State's arguments, we vacate the sentence and remand for additional proceedings.

I. CASE HISTORY

[¶3] Mosher was charged by complaint with domestic violence assault (Class D), 17-A M.R.S. § 207-A(1)(A), because of an incident that occurred on November 24, 2011. He was convicted following a nonjury trial. The court sentenced Mosher to 180 days in the county jail, with all but sixty days suspended, and a period of two years of probation with a requirement that Mosher participate in a certified batterers' intervention (CBI) program. Mosher objected to the sentence and argued that imposing two years of probation and requiring his participation in a CBI program violated his right to equal protection of the laws because the court could not impose a two-year term of probation for women.

[¶4] After sentencing, Mosher timely appealed pursuant to 15 M.R.S. § 2111(1) (2011) and M.R. App. P. 2. On appeal, he challenges only the sentence, not the conviction. We permit a direct appeal of an allegedly illegal sentence when the "illegality appears plainly in the record," and we review the constitutionality of a sentence de novo. *State v. Harrell*, 2012 ME 82, ¶ 4, 45 A.3d 732.

II. LEGAL ANALYSIS

[¶5] Defendants, male or female, convicted of some Class D crimes, including domestic violence assault, may be sentenced to up to one year of

probation. 17-A M.R.S. § 1202(1) (2011). Title 17-A M.R.S. § 1202(1-B) (2011), however, permits a court to sentence a defendant convicted of domestic violence assault to two years of probation, but only if the court orders the defendant “to complete a certified batterers’ intervention program as defined in Title 19-A, section 4014.” The sentencing statute itself makes no distinction between men and women.

[¶6] Title 19-A M.R.S. § 4014(1) (2011) instructs the Department of Corrections to adopt administrative rules “that establish standards and procedures for certification of batterers’ intervention programs.” *See also* 5 M.R.S. §§ 8071-8074 (2011) (describing the Legislature’s review of major substantive rules). The Department then reviews and certifies CBI programs that meet its standards. 19-A M.R.S. § 4014(1). Courts may refer defendants to only those CBI programs that the Department has certified. 17-A M.R.S. § 1204(2-A)(D) (2011).

[¶7] At this point, we understand that the Department has promulgated rules that authorize CBI programs only for men, thus making two-year terms of probation available for men only. The regulation defines a batterers’ intervention program as “an educational program for men” that is “designed specifically to intervene with court referred adult men who are abusive to their intimate women partners.” 1A C.M.R. 03 201 015-1 § 1.1(B) (2008). The programs will be “comprised of the same sex (men).” 1A C.M.R. 03 201 015-4 § 4.1(B)(4) (2008).

The rule notes that its “standards are specifically designed for men who abuse their intimate women partners” and that “[a] different model may be developed for same sex batterers, and for women who are abusive.”¹ 1A C.M.R. 03 201 015-4 § 4.3(A) (2008).

[¶8] The parties dispute whether CBI programs for women actually exist, notwithstanding the absence of a regulation authorizing such programs. The parties’ arguments, although undoubtedly made in good faith, are not based on facts in the record. Absent such a record, we are unable to reach the constitutional dispute before us.

[¶9] The State argues that Mosher failed to meet his burden to demonstrate that female defendants are not, in fact, being sentenced to two years of probation with a requirement that they complete a CBI program. The record before us, however, suggests that the Department has adopted rules that authorize programs for men only. As a result, whether or not women are being sentenced to such programs, a fact absent from the record, the published regulatory scheme permits only male defendants to be sentenced to an additional year of probation. In this context, the State bears the burden of demonstrating the constitutionality of a

¹ There are two ways to read this last phrase. The State argues that this phrase means that the regulation, at present, authorizes CBI programs for women. In the context of the full regulation, which repeatedly refers to programs for men, this interpretation is not persuasive. More likely, this language acknowledges that a different, and presently unpromulgated, rule may address programs for women. At oral argument, the State asserted that women are being sentenced to two-year terms of probation pursuant to provisional CBI programs for women. Nothing in the record supports that contention.

gender-based classification. See *United States v. Virginia*, 518 U.S. 515, 533 (1996).

[¶10] Our analysis of a claim that a statute is unconstitutional begins with a presumption that the law is constitutional. *Godbout v. WLB Holding, Inc.*, 2010 ME 46, ¶ 5, 997 A.2d 92. A challenger has the burden to demonstrate “convincingly” that a statute conflicts with the constitution. *Id.* “[A]ll reasonable doubts must be resolved in favor of the constitutionality of the statute.” *Id.*; see also *Driscoll v. Mains*, 2005 ME 52, ¶ 6, 870 A.2d 124 (stating that if there is a reasonable interpretation of a statute that will satisfy constitutional requirements, we will adopt it). Here, the statute itself does not create any gender-based distinctions or classifications, but application of the statute through regulations that limit the courts’ sentencing choices apparently does create such distinctions or classifications.

[¶11] Gender-based classifications are subject to intermediate equal protection scrutiny. See *Virginia*, 518 U.S. at 532-33; 4 Ronald D. Rotunda & John E. Nowak, *Treatise on Constitutional Law: Substance and Procedure* §§ 18.20-23 (4th ed. 2008 & 2011 Supp.) (describing the history and application of intermediate scrutiny to gender-based classifications). The Maine Constitution’s guarantee of equal protection is co-extensive with that of the Fourteenth Amendment. *Friends of Lincoln Lakes v. Bd. of Env’tl. Prot.*, 2010 ME 18, ¶ 26,

989 A.2d 1128. To withstand intermediate scrutiny, gender-based statutory classifications “must advance an important governmental objective and be substantially related to achieving that objective.” *See State v. Houston*, 534 A.2d 1293, 1296 (Me. 1987).

[¶12] We have previously held that a male defendant may not be punished more harshly than a female defendant convicted of the same crime. In *Houston*, we considered whether a sentencing judge violated a male defendant’s right to equal protection when the judge intimated at sentencing that he was punishing the defendant more harshly than he would a similarly situated female defendant. *Id.* We vacated the sentence and held that “[t]here exists no sound reason for punishing more harshly a man’s unprovoked assault upon a woman than a similar attack upon a victim who is an equally defenseless male.” *Id.* at 1297. Given this precedent, a regulatory scheme that permits men to be sentenced to two years of probation while women apparently may only be sentenced to one year of probation would not withstand constitutional scrutiny. The trial court must resolve in the first instance whether such a regulatory scheme exists in this case.

[¶13] Whether single-gender programs are substantially related to achieving an important governmental objective, *id.* at 1296, cannot be determined on the record before us. Similarly, whether there are in fact provisional CBI programs that permitted women to be sentenced to two-year terms of probation at the time

that Mosher was sentenced to a two-year term of probation cannot be determined on this record. The issue was addressed only in brief arguments before the trial court that did not promote development of a factual record to support the equal protection challenge on the significant constitutional issue raised by the term of probation imposed in this case.

[¶14] When an appeal presents a constitutional challenge to a statute or regulation, we must be cautious about addressing constitutional issues if addressing issues that do not implicate a constitutional violation can resolve the appeal. *Bates v. Dep't of Behavioral & Developmental Servs.*, 2004 ME 154, ¶ 85, 863 A.2d 890; *Hannum v. Bd. of Env'tl. Prot.*, 2003 ME 123, ¶ 18, 832 A.2d 765. Here, in order to address the constitutional issue, the trial court must require the parties to develop the facts as to whether CBI programs for women, permitting a two-year term of probation, are available or were available at the time that Mosher was sentenced, and then it must determine whether a gender-based distinction in implementing CBI programs is substantially related to a legitimate governmental interest.

[¶15] Accordingly, we remand for the trial court to develop the facts on these issues and, after development of the facts and completion of the constitutional analysis, resentence Mosher to the same term of probation or a

reduced term of probation as its factual findings and legal conclusions may support.

The entry is:

Sentence vacated. Remanded for further proceedings in accordance with this opinion.

On the briefs:

Scott F. Hess, Esq., Law Office of Scott F. Hess, LLC, Augusta, for appellant Christopher Mosher

Alan P. Kelley, Acting District Attorney, and Alisa Ross, Asst. Dist. Atty., Prosecutorial District IV, Augusta, for appellee State of Maine

At oral argument:

Scott F. Hess, Esq., for appellant Christopher Mosher

Alisa Ross, Asst. Dist. Atty., for appellee State of Maine

Attachment B

Chapter 15: BATTERER INTERVENTION PROGRAM CERTIFICATION

Summary: This chapter outlines the procedures and standards governing the certification and monitoring of Batterer Intervention Programs, pursuant to 19-A M.R.S.A. §4014.

1. Procedures and Standards for Batterer Intervention Programs (relating to psychological, physical, verbal and sexual abuse).

1.1 Definitions

A. Domestic Violence

In the context of this document, the definition of the term “domestic abuse” refers to 19-A M.R.S.A. §4002.

"Abuse" means the occurrence of the following acts between family or household members or dating partners.

1. Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under Title 17-A, Chapter 11, except that contact as described in Title 17-A, §106, sub-§1, is excluded from this definition;
2. Attempting to place or placing another in fear of bodily injury through any course of conduct including, but not limited to, threatening, harassing, or tormenting behavior;
3. Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage;
4. Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by: removing that person from that person's residence, place of business or school; moving that person a substantial distance from the vicinity where that person was found; or confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved;
5. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is

communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed; or

6. Repeatedly and without reasonable cause:
 - a. following the victim; or
 - b. being at or in the vicinity of the victim's home, school, business, or place of employment.

B. Batterer Intervention Program

1. The term “batterer intervention program” refers to an educational program which is one component of a coordinated community response to domestic abuse where the main goals are:
 - a. working toward the safety of victims; and
 - b. holding domestic abuse offenders accountable for their actions.
2. The programs for domestic abuse offenders (hereafter called “the BIP programs”) referred to in these standards are designed specifically to intervene with court referred adults who are abusive to their intimate partners.

C. Family Violence Project

1. The term “family violence project” or “domestic violence project” refers to a network of programs and services for victims of domestic abuse. The Maine Coalition to End Domestic Violence (MCEDV) is comprised of most of Maine’s domestic violence projects. Each domestic violence project is a private, independent, non profit agency which provides individual crisis intervention, legal information, and advocacy for people affected by domestic abuse, as well as support groups and shelter options for victims of domestic abuse and their children. These services are confidential, free of charge, and based on a self-help model. In addition, domestic violence projects provide training, education, and consultation to community groups, schools, public officials, and services providers to improve the community’s response to domestic abuse.
2. In the case of a family violence project which is not a member of the Maine Coalition to End Domestic Violence (MCEDV), that project which is providing the services described above will serve as the collaborator in that jurisdiction.
3. For the purposes of this document, hereafter “family violence projects” or “domestic violence projects” will be referred to as “FVProjects.”

- D. Monitoring** consists of observation of and consultation about the performance/operation of a BIP program in order to promote the safety of victims

of domestic violence. Monitoring will be provided by staff of a family violence project as outlined in section 5.8 A or by a third party monitor as outlined in section 5.8 B. Written documentation of these interactions will be provided to the BIP program and the Maine Department of Corrections and maintained by the monitoring agency.

- E. **Supervision** is the internal oversight of the process and content of the BIP program by a qualified primary supervisor as defined in section 4.5 C.
- F. **Staff** means both paid and unpaid staff.

2. Requirements for Certification

2.1 Oversight of the Maine Standards for Batterer Intervention Programs

- A. The Maine Department of Corrections, hereafter called "DOC", shall be the lead agency responsible for implementation of these standards, through its Victim Services Coordinator. Only BIP program that hold a valid certificate granted by the DOC shall be utilized for court referrals. A certificate shall be valid for two years unless suspended or revoked.
- B. The DOC, in consultation with the Maine Commission on Domestic and Sexual Abuse, shall develop and, on a biannual basis, review a certification process for BIP programs. The review process may include input from representatives of the following agencies and organizations and any others deemed appropriate by the DOC:
 - 1. family violence projects;
 - 2. batterer intervention programs;
 - 3. the judicial system;
 - 4. local law enforcement;
 - 5. victims of domestic violence;
 - 6. health and human service agencies;
 - 7. schools;
 - 8. hospital emergency departments;
 - 9. community corrections;
 - 10. groups working with victims of child abuse;
 - 11. groups working with victims of rape;

12. groups coordinating supervised visitation; and/or
 13. other related services.
- C. BIPrograms will be assessed a fee for program certification.
- D. Certification of BIPrograms will be for a period of two years.
- E. If anyone has a dispute regarding the certification of a BIProgram, which appears to be at an impasse, it will be the responsibility of the DOC, in consultation with the Maine Commission on Domestic and Sexual Abuse, to attempt to bring such a dispute to resolution.

2.2 Application for Certification

- A. Each BIProgram requesting certification or renewal of certification shall submit a completed application to the DOC containing all of the information requested, to include, but not be limited to:
1. demonstration of the BIProgram's ability to meet the Maine Standards;
 2. an overview of the BIProgram content;
 3. proof of successful completion for all co-facilitators at a national batterer intervention training or similar training determined to be sufficient by the DOC;
 4. documentation of a working agreement with the local FVProject in each county the BIProgram may operate in or request for waiver of this requirement providing reasons determined to be sufficient by the DOC;
 5. documentation of a working agreement with the Regional Correctional Administrator;
 6. demonstration of need for a BIProgram, or another BIProgram, in the geographic area;
 7. name, address, and telephone number of the BIProgram and all sites; and
 8. a statement of ownership of the BIProgram, that discloses the names, address, and telephone numbers of all owners, directors, and officers of the corporation, and any members of any governing or advisory boards.

2.3 Denial, Refusal to Renew, Suspension, and/or Revocation of Certification

A. Definitions

1. **Denial:** action taken by DOC to not certify a BIProgram.
2. **Refusal to Renew:** action taken by DOC at the end of a two year certification period rejecting a BIProgram's application for renewal.

3. **Suspension:** action taken by DOC in lieu of revoking or refusing renewal of certification that stipulates the Program may not admit any clients until any deficiencies are corrected or the certification is revoked.
 4. **Revocation:** action taken by DOC removing a BIProgram's certification after the DOC has certified the Program, but before the BIProgram's two year certification has expired. This action makes the affected BIProgram ineligible to receive court referrals.
- B. Each of the following, in and of itself, may constitute full and adequate grounds on which to deny, revoke, or refuse to renew certification to operate a BIProgram:
1. failure to submit information required for certification;
 2. failure to meet any of these Maine Standards for Batterer Intervention Programs;
 3. denial of entry to agents of the DOC to conduct site visits or inspections or any other attempt to impede the work of agents of the DOC;
 4. obtaining or attempting to obtain certification by fraud, misrepresentation, or by the submission of incorrect, false, and/or misleading information;
 5. criminal conduct by the owners, staff, or administrators as evidenced by criminal convictions;
 6. operation of a BIProgram after the expiration of certification;
 7. operation of a BIProgram in a manner which fails to fulfill the terms of the program - client agreement; or
 8. operation of a BIProgram in a manner which endangers the health or safety of clients and/or victims of domestic abuse.

2.4 **Recourse of Programs when Certification has been Denied, Refused Renewal, Suspended and/or Revoked**

- A. A BIProgram whose certification has been denied, refused renewal, suspended and/or revoked by DOC will receive in writing, by certified mail, a program compliance letter outlining the standards that the Program is not in compliance with and the time frames allowed to bring the BIProgram into compliance.
- B. The BIProgram has 60 days from the date of notification of denial, refusal to review, suspension and/or revocation of certification to resubmit the application, clearly indicating remediation for deficiencies. DOC must respond to this information within 60 days of receipt.
- C. The BIProgram may appeal the DOC response to the Commissioner of Corrections within fifteen days of receipt of the response.

3. Coordinated Community Response to Domestic Abuse

3.1 Goals

- A. A coordinated community response to domestic abuse occurs when diverse segments of a community work together for two common goals:
1. the safety of the victims of domestic abuse; and
 2. to end domestic abuse.

3.2 Coordinated Community Response to Domestic Abuse

- A. During development, implementation, and evaluation of BIP programs, BIP program staff shall consult, cooperate, and coordinate with representatives of the following agencies and organizations:
1. family violence projects;
 2. the judicial system;
 3. local law enforcement;
 4. health and human service agencies;
 5. community corrections; and
- B. During development, implementation, and evaluation of BIP programs, BIP program staff are encouraged to consult, cooperate, and coordinate with representatives of the following agencies and organizations;
1. other certified BIP programs;
 2. victims of domestic violence;
 3. schools, including community adult education programs;
 4. hospital emergency departments;
 5. groups working with victims of child abuse;
 6. groups working with victims of rape;
 7. groups coordinating supervised visitation;
 8. groups providing services to diverse populations; and/or
 9. other related services.

3.3 BIProgram - FVProject Collaboration

- A. The BIProgram shall acknowledge the leadership of victims, who are experts on domestic abuse, and the battered women's movement, in ending domestic violence through:
 - 1. consulting with the local FVProject on all written curricula, publications, and public relations materials of the BIProgram;
 - 2. publicly acknowledging the contributions of the battered women's movement to their efforts and that BIPrograms exist in support of the goals of the FVProjects;
 - 3. consultation with the local FVProject when seeking funds in a way that competes with funding for FVProjects;
 - 4. always encouraging victims to contact their local FVProject;
 - 5. inviting the local FVProject advocates to attend BIProgram groups;
 - 6. participation in a community response to domestic abuse; and
 - 7. negotiating an ongoing working relationship with the local FVProject and accepting feedback in order to hold themselves accountable to the battered women's movement, acknowledging that a working relationship may go beyond these standards.
- B. A BIProgram may only accept referrals of persons residing in a county in which the BIProgram has a working agreement with the local FVProject, unless the program is granted a waiver by DOC.

3.4 Partner Contacts

- A. A partner contact is the verbal and/or written exchange of information between the victim and a designated representative of the local FVProject.
- B. The purpose of the partner contact is to provide the victim with:
 - 1. support and validation;
 - 2. information about the BIProgram;
 - 3. information about the local resources for victims;
 - 4. assistance in developing a safety plan; and
 - 5. information about the FVProject as an ongoing resource for victims.
- C. Within seven days of enrollment in the BIProgram, unless the time frame is modified by any working agreement with the local FV Project, the BIProgram shall provide the local FVProject with the names and addresses of:

1. the domestic abuse offender enrolled in their program;
 2. any adult or child victim identified in available police reports and/or court proceedings; and
 3. current partner of the domestic abuse offender.
- D. The BIProgram shall never initiate written or verbal contact with victims except in the following situations:
1. when a victim may be in jeopardy (verbal communication only);
 2. notification of the domestic abuse offender's admission into the BIProgram (written communication only); and
 3. notification of when the domestic abuse offender is discharged from the BIProgram (written communication only).
- E. In no case is a BIProgram required to initiate contact with a victim if such contact would jeopardize the safety of the domestic abuse offender or violate federal or state confidentiality laws.
- F. Should a victim initiate contact with a BIProgram, the victim shall always be referred to the local FVProject for supportive services.

3.5 Financial Responsibility for BIProgram - FVProject Collaboration

- A. Costs incurred by the FVProjects for providing services to partners in the context of their outreach efforts will be the responsibility of the FVProjects.
- B. Any costs incurred as the result of supervision, training, and/or monitoring by the FVProject or a third party monitor of the BIProgram shall be reimbursed by the BIProgram.

4. BIProgram Model

4.1 BIProgram Format

- A. The training received by co-facilitators and the curriculum used by BIPrograms will be based upon, and adhere to, models developed by acceptable nationally recognized programs or similar training and curriculum determined to be sufficient by the DOC and that are consistent with Maine BIProgram Standards.
- B. BIPrograms will be:
 1. held in a group format of no more than 15 participants, nor less than 3, unless the program is granted a waiver by DOC;
 2. educationally oriented;

3. restricted to perpetrators of domestic abuse;
 4. comprised of the same gender; and
 5. have rolling or open admission (no waiting lists).
- C. Each group will be co-facilitated by an appropriately trained male and female co-facilitator, except that a group serving female domestic abuse offenders may be co-facilitated by two female co-facilitators. "Co-facilitated" means that each co-facilitator contributes substantially equally in the facilitation process. (See 4.5 for definition of appropriately trained.)

4.2 Inappropriate BIP Program Format

- A. Theories or methods which in any way make the victim responsible for the domestic abuse offender's behavior, or define a BIP program as treatment, or diminish the domestic abuse offender's responsibility for the violence are inappropriate. The following formats, methods, and treatment modalities will not be used by certified BIP programs working with domestic abuse offenders:
1. individual counseling;
 2. couples or conjoint counseling;
 3. anger management;
 4. systems therapy;
 5. addiction counseling (identifying violence as an addiction);
 6. family therapy; or
 7. medication management.
- B. Unless specifically authorized in these standards, facilitators shall not concurrently provide services to domestic abuse offender and victim, current partner or minor children.

4.3 Target Population

- A. These standards are specifically designed for adults who abuse their intimate partners. It is important that appropriate models be implemented for men who abuse their female partners, women who use violence against their male partners, and same gendered abusers.

4.4 Length of the BIP Program

- A. Batterer intervention programs will be a minimum of 48 weeks in duration.

- B. Each weekly session will be at least 90 minutes long, with check-in consuming no more than 30 minutes.
- C. Domestic abuse offenders who have completed a minimum 48 week BIP program should be given the opportunity of voluntarily continuing their participation, or returning to the BIP program at a later date.
- D. The intake screening, initial assessment and admission evaluation shall not be considered one of the 48 weeks.

4.5 BIP Program Staff Selection, Supervision, and Training

- A.
 - 1. Staff must be “violence free,” having had no convictions or protective orders for offenses of violence for the last ten years.
 - 2. Staff may not have a criminal conviction within the last ten years, unless granted a waiver from the Department of Corrections.
 - 3. Staff shall not be on probation, parole or other supervision post-conviction, administrative release, or deferred disposition for any state or federal criminal offense.
 - 4. The program shall develop and maintain hiring criteria.
- B. All BIP program staff having direct contact with domestic abuse offenders shall:
 - 1. provide certification of attendance at a national BIP program training or similar training determined to be sufficient by the DOC or attend such training within 6 months of being hired to co-facilitate groups;
 - 2. be provided with on the job training with an experienced supervisor, to include a minimum of observation of six sessions of group, followed by co-facilitation of an additional six sessions of group with a trained experienced facilitator prior to assuming responsibility for a group; and
 - 3. attend a minimum of 6.25 hours per year continuing education on topics agreed upon by the program and the family violence project. It will be the responsibility of the primary supervisor of the Batterer Intervention Program to maintain training records.
- C. Any individual identified as the Program Director or “primary supervisor” shall have at least two years documented experience in the following areas:
 - 1. direct work with victims;
 - 2. direct work with domestic violence perpetrators;
 - 3. group work; and
 - 4. supervision of employees.

4.6 BIProgram Curriculum

- A. The BIPrograms must include in their curriculum that:
1. stress, a life crisis, and chemical dependency are not causes of domestic abuse, but ongoing substance abuse increases the risk of re-offense;
 2. domestic abuse is one choice a domestic abuse offender makes to gain and then maintain an imbalance of power and control in the domestic abuse offender's relationship with an intimate partner;
 3. domestic abuse offenders are solely and exclusively responsible for their controlling and abusive behavior;
 4. the effect of abuse on victims, including children who witness abuse, is harmful; and
 5. abuse is never justified.

4.7 BIProgram Fee Structure

- A. A victim shall never be expected to pay for their domestic abuse offender's participation in a BIProgram.
- B. A domestic abuse offender must be charged at least a nominal fee. Programs may charge on a sliding fee scale.

5. Administrative Standards

5.1 BIProgram Intake Process

- A. The BIProgram shall schedule an intake into the BIProgram within two weeks from the time the domestic abuse offender contacts the Program.
- B. At the intake, the domestic abuse offender must enter into a written agreement with the BIProgram, which includes the following:
1. the responsibilities of the domestic abuse offender;
 2. the responsibilities of the BIProgram;
 3. an agreement to stop all forms of violence;
 4. the minimum length of the BIProgram;
 5. waivers of confidentiality (approved by the Department of Corrections);
 6. the fee structure; and a payment plan.
 7. criteria for discharge.

8. a copy of the complaint procedure.
 9. readmission criteria.
- C. During intake, the BIP program shall obtain the following information from the domestic abuse offender:
1. full legal name of domestic abuse offender;
 2. current home address and mailing address (if they are different);
 3. current home telephone number, cell phone number, or telephone number of contact if the domestic abuse offender does not have a telephone;
 4. date of birth;
 5. name of employer, and current work address and telephone number of employer;
 6. partner and/or victim name (if they are different);
 7. current driver's license number, or photo ID card;
 8. make, model, year and license plate number of the vehicles used by the domestic abuse offender;
 9. history of any substance abuse;
 10. psychiatric history including homicidal and suicidal ideation;
 11. history of any weapons possession and usage; and
 12. history of abusive behaviors.
- D. Within six weeks after the domestic abuse offender begins the BIP program, the domestic abuse offender must provide the BIP program with the following independent descriptions of the domestic abuse offender's abusive behavior, including, but not limited to:
1. police reports (if applicable);
 2. probation, parole or other post conviction supervision or administrative release conditions (if applicable);
 3. legal pleadings, including, but not limited to, deferred dispositions, petitions and complaints (if applicable);

4. court orders, including, but not limited to, protective orders (if applicable); and
 5. previous child protective service reports (if applicable and available).
- E. The following people will be notified in writing of the domestic abuse offender's acceptance into the BIP program within 7 days, unless the time frame is modified by the family violence project's working agreement:
1. the domestic abuse offender;
 2. the victim and/or current partner, unless notification of the victim would jeopardize the safety of the domestic abuse offender or violate federal or state confidentiality laws;
 3. the domestic abuse offender's Probation Officer (if applicable);
 4. the local FV Project; and
 5. referral source, including the prosecuting attorney's office or DHHS caseworker.
- F. At minimum, the information to be contained in the communication referred to in 5.1 E must include:
1. the date the domestic abuse offender begins the BIP program;
 2. limitations of the BIP program;
 3. that victims are not required to have any contact with the FV Project and/or BIP program; and
 4. a copy of participant agreement.

5.2 BIP Program Discharge

- A. Reasons for discharge from a BIP program include that:
1. the domestic abuse offender has completed the 48-week program to the satisfaction of the BIP program staff, based upon criteria contained in the participant agreement;
- B.
1. the domestic abuse offender has three unexcused absences during the 48-week BIP program;
 2. the domestic abuse offender fails to pay the agreed upon amount for group; and/or
 3. the domestic abuse offender does not comply with the rules of the BIP program.

- C. The following people will be notified in writing of the domestic abuse offender's discharge from the BIProgram.
1. the domestic abuse offender;
 2. the victim and/or current partner;
 3. the domestic abuse offender's Probation Officer (if applicable);
 4. the local FVProject;
 5. the prosecuting attorney's office if a Probation Officer is not involved; and/or
 6. DHHS caseworker if involved.
- D. At minimum, the information to be contained in the communication referenced in 5.2 C must include:
1. the date the domestic abuse offender was discharged from the BIProgram;
 2. the reason for discharge; and
 3. recommendations which may include, but are not limited to, assessment for additional services or further action by community corrections, which may include revocation.

5.3 Re-Admission to BIProgram after Discharge.

- A. A domestic abuse offender who has not successfully completed 48 weeks and returns after being discharged must start at intake unless the domestic abuse offender is allowed to start at week 1 at the discretion of the program administrator, except that if the discharge was based upon unexcused absences, the domestic abuse offender begins at the week before the first of the unexcused absences.

5.4 Transfer of Credits

- A. Each Batterer Intervention Program shall accept transfer of credits for weeks satisfactorily completed at another Batterer Intervention Program certified in the State of Maine provided the domestic abuse offender was in good standing with the other program at the time of transfer.
- B. Each participant requesting transfer of credit must obtain a letter of referral from the previous program, setting forth the number of weekly credits that the domestic abuse offender has earned, the number of excused and unexcused absences, and that the participant is in good standing, and present it to the new program prior to receiving any credit(s) for weeks completed.

5.5 Participant Complaint Procedure

- A. Before filing any complaint against a BIP program, the domestic abuse offender shall make an attempt to resolve the complaint in an informal manner by talking with the facilitator(s).
- B. If unable to come to an agreement with the facilitator, the domestic abuse offender shall contact the program director who shall attempt, as soon as possible, to resolve the complaint.
- C. If the complaint remains unresolved, a formal written complaint may be made to the Department of Corrections, 111 Statehouse Station, Augusta, Maine 04333-0111, Attention: Victim Services Coordinator. A copy of the complaint will be provided to the BIP program director and the FV Project as part of the investigation.

5.6 Confidentiality

- A. All written and/or oral communications with victims must be held in confidence by the BIP program, except for mandated reporting requirements.
- B. Notwithstanding the above, the BIP program may provide information to the FV Project so that the Family Violence Project may offer safety planning resources.

5.7 Record Keeping

- A. Domestic abuse offender and victim records (if any) must be maintained in separate files with no record or reference of partner contact beyond the initial letter to the partner about the domestic abuse offender's admission into the BIP program.
- B. There must be at least minimal documentation for each group session attended, which must include:
 - 1. date;
 - 2. topic; and
 - 3. amount of time spent in group.
- C. Monthly status reports must be mailed by the BIP program to the domestic abuse offender's Probation Officer (if applicable). Reports must include information concerning:
 - 1. attendance; and
 - 2. compliance with BIP program rules.

The reports may include information about the existence of a substance abuse problem.

5.8 Approval and Monitoring Process

- A. Any costs incurred as the result of monitoring of the BIP program shall be the responsibility of the BIP program.
 - 1. BIP programs should expect that monitors will attend a BIP program class once a month per facilitator pair. Monitoring may occur more or less frequently upon agreement between the BIP program and the family violence project or third party monitor, as applicable, but no less than quarterly per facilitator pair. Authorization must be obtained from the Department of Corrections for monitoring to occur less frequently than once per month per facilitator pair.
 - 2. BIP programs should expect that monitors will provide written and verbal communication to BIP program regarding the performance/operation of each observed class within 30 days. The BIP is required to provide the documentation of monitoring to the Department of Corrections.
- B. Third Party Monitors shall be utilized when the local family violence project is unable, unwilling or fails to monitor the Batterer Intervention Program or is operating the Batterer Intervention Program.
 - 1. Selection of third party monitors must be made from a pool of names developed by the Maine Association of Batterer Intervention Programs and the Maine Coalition to End Domestic Violence.
 - 2. Documentation of monitoring sessions must be sent to the local family violence project.

6. Jail and Correctional Facility Standards

6.1 Jail Standards

- A. Batterer Intervention Programs offered in county jails shall meet all standards required for certification.
- B. Prisoners will be required to provide victim/partner contact information as part of the intake process.
- C. Victim/partner information will be provided to the family violence project in the area that the victim/partner resides, within seven days of intake.

6.2 Department of Corrections Facility Standards

- A. Batterer Intervention Programs offered in correctional facilities shall meet all standards required for certification.

- B. Prisoners will not be considered eligible for the program until they are within six months of discharge, release to probation or transfer to Supervised Community Confinement.
 - C. Prisoners will be required to provide victim/partner contact information as part of the intake process.
 - D. Victim/partner information will be provided to the family violence project in the area that the victim/partner resides, within seven days of intake.
 - E. Batterer Intervention Programs offered in a correctional facility will be limited to an 8-week introductory standardized curriculum.
-

STATUTORY AUTHORITY: 19-A M.R.S.A. §4014; Resolve 2013 ch. 3

EFFECTIVE DATE:

April 29, 1998 (major substantive)

STATUTORY AUTHORITY:

19-A M.R.S.A. §4014(1). The Maine Department of Corrections is adopting a proposal to revise the existing standards for the certification of batterer intervention programs pursuant to 19-A M.R.S.A. §4014 (1) to revise the Standards as a result of the 2002 biannual review. The Maine Department of Corrections developed the proposed rules in consultation with the Maine Commission on Domestic and Sexual Abuse in accordance with the provisions of 19-A M.R.S.A. §4014(1). The proposed revisions to the Batterer Intervention standards will result in improved operation of the Batterer Intervention Programs.

EFFECTIVE DATE:

June 26, 2003 - filing 2003-167 (major substantive)

STATUTORY AUTHORITY: 19-A M.R.S.A. §4014(1). The Maine Department of Corrections is adopting a proposal to revise the existing standards for the certification of batterer intervention programs pursuant to 19-A M.R.S.A. §4014 (1) to revise the Standards as a result of the 2004 biannual review. The Maine Department of Corrections developed the proposed rules in consultation with the Maine Commission on Domestic and Sexual Abuse in accordance with the provisions of 19A M.R.S.A. §4014(1). The proposed revisions to the Batterer Intervention standards will result in improved operation of the Batterer Intervention Programs.

EFFECTIVE DATE:

July 23, 2005 - filing 2005-247 (major substantive)

REPEALED AND REPLACED:

June 20, 2008 – filing 2009-211 (major substantive)

April 4, 2013 – filing 2013-074 (EMERGENCY, routine technical)

August 11, 2013 – filing 2013-198 (routine technical)

Attachment C

Maine Department of Corrections

Home → > Victim Services > Batterer Intervention Programs

Certified Batterer Intervention Programs

County	Program	Address	Meeting Time/Location
ANDROSCOGGIN, FRANKLIN and OXFORD	Alternatives to Abuse (AWAP) (Male Program)	P.O. Box 713 Auburn ME 04212	Friday - 6:30 a.m. Saturday 8:00 a.m.
		Coordinator: Rosemary Word Tel. (207)795-6744 x21 Tuesday	Calvary United Methodist Church 59 Sabattus Street Lewiston ME
	Certified until 7/17/2015		Monday - 6:00 p.m. 57 Birch St. Lewiston ME
			Thursday 6:30 p.m. Congregational Church Main St., Wilton
			P.O. Box 713 Auburn, ME 04212

Alternatives to Abuse (Female Program)

Certified until
4/17/2015

- Director: Kelley Glidden

AROOSTOOK

Northern New England Community Resource Center
 (Male Program)
 Certified until 5/3/2014

P.O. Box 164
 Houlton ME 04730
 (207)694-3066

Monday 6:00 p.m.
 Chamber of Commerce, Presque Isle
 Tuesday 6:00 p.m.
 Cary Medical Center, Caribou

- Director: Charles Moody

Wednesday 6:00 p.m.
 Houlton Regional Hospital, Houlton
 P.O. Box 164
 Houlton, ME 04730

CUMBERLAND

A Different Choice
 (Male Program)
 Certified until 11/13/2015

P.O. Box 1844
 Portland, ME 04104

Monday 7:00 p.m.
 St. Anne's Church, Windham ME
 Tel. (207) 318-2313

- Director: Ellen Ridley

CUMBERLAND and SAGADAHOC

Choices - The Men's Group (Male Program)
 Certified until 1/29/2015

14 Maine St.
 Brunswick ME 04011
 Tel. (207) 442-0181

Friday 9:00 a.m.
 All classes are held at 1328 Washington St. Bath ME

- Director: Mary O'Leary

CUMBERLAND **Opportunity for Change** (Male Program)
 Suite 140 222 St. John Street, 222 St. John St., Portland ME 04102
 Mondays 6:00 p.m.
 Certified until 6/7/2015
 Wednesday 7:00 a.m.
 • Director: Mary Campbell
 Community Corrections Center
 Thursdays 4:30 p.m.
 222 St. John Street, Portland ME

HANCOCK and PENOBSCOT **Choice V** (Male Program)
 185 Harlow Street Bangor ME 04402
 Wednesdays 3 p.m. & 5:00 p.m.
 Certified until 5/3/2014
 185 Harlow Street Bangor ME
 (207)852-9612
 • Supervisor: Astor Gillis
 Tuesday 5:00 p.m.
 • Pete Ward
 59 Franklin St.#8 Ellsworth ME
 (207)667-2730

KENNEBEC and SOMERSET **Menswork** (Male Program)
 4 Wabon Street, Augusta ME 04330
 Tuesday 4:30 p.m.
 Tuesday 7:00 p.m.
 Saturday 8:30 a.m.
 Certified until 7/15/2015
 4 Wabon Street, Augusta, ME
 Tel. (207) 623-7252
 Wednesday 5:00 p.m.
 Wednesday 7:30 p.m.
 • Director: Jon Heath
 Salvation Army Church
 Waterville ME

then
 Monday 5:00 p.m.
 Thursday 7:30 p.m.

Pleasant Street,
Methodist Church in
their library
Waterville, ME

Tuesday 5:00 p.m.
Tuesday 7:30 p.m.
Notre Dame de
Lourdes Parish Hall
Skowhegan ME

Respect ME (Female
Program)

5 Commerce Drive
Skowhegan, ME
04976

Certified until
4/17/2015

- Director: Robert
Rogers

KNOX
LINCOLN
and
WALDO

Time for Change
(Male Program)

93 Park Street
Rockland, ME
04841

Wednesdays 6:00
p.m.

Certified until
4/29/2014

Tel. (207)594-
0270

U.U. Church, Miller
Street, Belfast, ME
(behind Belfast Free
Library)

- Director: Amber
Wotton

Thursdays 6:00
p.m.; 93 Park Street,
Rockland, ME

Time for Change
(Female Program)

93 Park Street,
Rockland, ME
04841

Certified until
6/13/2015

Tel. (207)594-
0270

- Director: Amber
Wotton

PENOBSCOT	Batterers' Intervention Program (Male Program)	One Cumberland Place Bangor ME 04402	Monday 4:30 p.m. One Cumberland Place Bangor ME
	Certified until 9/3/2015	phone: (207) 217-6588	
	• Director: Kathryn Maietta	Fax: (207) 217-6587	
 PISCATAQUIS	 DV Classes for Men (Male Program)	 572 Bangor Rd. Dover-Foxcroft ME 04426	 Thursday 6:00 p.m. Charlotte White Center
	 Charlotte White Counseling Center		 Annex Building 59 River Street Dover-Foxcroft ME
	Certified until 11/7/2014	1-888-564-2499 Annex-207-564-7106 fax: 207-564-8137	
	 Domestic Violence Classes for Women (Female Program)		 57 River Street Dover-Foxcroft, ME 04426
	Certified until 4/17/2015		
	• Director: Stephen Madera		
 WASHINGTON	 It's Not Okay (Male Program)	 101 Kennebec Road Machias ME	 Wednesday from 5:00 p.m. Probation Office Machias
	Certified until 9/1/2014	(207)255-6682	

- Richard and Paula Rolfe

YORK

Violence No More
(Male Program)

110 Saco Falls Wednesday 5:30
Way, Suite 425 p.m. and 7:30 p.m.
Biddeford ME

Certified until
6/10/2015

04005 Thursday 9:30 a.m.

- Director: Martin Burgess

Tel. (207)283-26 South Street
8574 Biddeford ME

Thursday 5:30 p.m.
and 7:30 p.m.

Sanford Unitarian
Church
Main Street
Sanford ME

P.O. Box 590
Sanford, ME 04073

Caring Unlimited
(Female Program)

Certified until
4/29/2015

- Director: Cynthia Peoples

Site Information

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- Site Policies

Attachment D

STATEWIDE BATTERER INTERVENTION PROGRAM MALE STATISTICS

January 1, 2013 to December 31, 2013

Total number of men who were enrolled in the program	808
Number of men who completed the program	197
Number of men who left without completing the program(their choice)	109
Number of men who left without completing the program (expelled)	144
Non-DV Number of men who re-offended and went to jail while attending	34
DV - Number of men who re-offended and went to jail while attending	26
Number of men who completed but were required to attend again	4
Number of referrals from MDOC probation	535
Number of referrals resulting from filings or condition of release	49
Number of referrals from DHHS	51
Number of protection from abuse referrals (PFA)	32
Number of self-referrals	61
Transfers from other Batterer Intervention Programs	13
Number of other referrals	15
Number of deferred dispositions	76
Number of men with special needs	19
Number of men referred to another provider for mental health services	4
Number of men referred to another provides for substance abuse	5
Number of men referred to another provider for literacy services	1
Number of men referred to another provider for parenting services	10
Number of men referred to another provider for vocational services	0
Number of men referred to another provider for employment services	6
Number of men referred to another provider for financial services	0

Attachment E

STATEWIDE BATTERER INTERVENTION PROGRAM FEMALE STATISTICS

January 1, 2013 to December 31, 2013

Total number of females who were enrolled in the program	44
Number of females who completed the program	10
Number of females who left without completing the program(their choice)	10
Number of females who left without completing the program (expelled)	4
Non-DV Number of females who re-offended and went to jail while attending	5
DV - Number of females who re-offended and went to jail while attending	0
Number of females who completed but were required to attend again	0
Number of referrals from MDOC probation	18
Number of referrals resulting from filings or condition of release	0
Number of referrals from DHHS	3
Number of protection from abuse referrals (PFA)	0
Number of self-referrals	5
Transfers from other Batterer Intervention Programs	0
Number of other referrals	1
Number of deferred dispositions	12
Number of females with special needs	1
Number of females referred to another provider for mental health services	1
Number of females referred to another provides for substance abuse	2
Number of females referred to another provider for literacy services	0
Number of females referred to another provider for parenting services	0
Number of females referred to another provider for vocational services	0
Number of females referred to another provider for employment services	0
Number of females referred to another provider for financial services	0

Attachment F

**Domestic Violence Offenders
Court Ordered Probation Conditions
Maine Department of Corrections
2013**

