

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Establish the Criminal Law Revision Commission

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

Whereas, certain criminal laws within the Maine Revised Statutes are ambiguous and in some cases contradictory, making them ineffective or unduly burdensome for the judicial system; and

Whereas, the Criminal Law Advisory Commission does not have the resources or the clear authority to conduct a comprehensive review of Maine's criminal laws and make policy recommendations for changes to those laws; and

Whereas, the immediate creation of an organization to review and revise Maine's criminal laws is essential to ensure Maine's criminal justice system functions fairly and effectively and the Legislature's policy goals are achieved; 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. 5 MRSA §12004-I, sub-§52-C is enacted to read:

52-C.

<u>Judiciary: Criminal</u>	<u>Criminal Law</u>	<u>Legislative Per Diem</u>	<u>17-A MRSA §1371</u>
<u>Law</u>	<u>Revision Commission</u>	<u>and Expenses for</u>	
		<u>Legislators and</u>	
		<u>Expenses Only for</u>	
		<u>Other Members</u>	

This subsection is repealed October 1, 2017.

Sec. 2. 17-A MRSA c. 56 is enacted to read:

CHAPTER 56

CRIMINAL LAW REVISION COMMISSION

§ 1371. Establishment

The Criminal Law Revision Commission, referred to in this chapter as "the commission," is established in Title 5, section 12004-I, subsection 52-C.

§ 1372. Purposes

The commission is established to examine all criminal statutes within the Maine Revised Statutes and the administration of those statutes to assess their clarity and consistency, the proportionality of penalties to offenses and the effectuation of policy objectives.

§ 1373. Membership; terms; vacancies

1. Members. The commission consists of the following members:

A. The following 11 voting members:

(1) Two members of the Senate, representing 2 political parties, who are members of the joint standing committee of the Legislature having jurisdiction over criminal justice matters, one appointed by the President of the Senate and one appointed by the Senate Minority Leader;

(2) Two members of the House of Representatives, representing 2 political parties, who are members of the joint standing committee of the Legislature having jurisdiction over criminal justice matters, one appointed by the Speaker of the House and one appointed by the House Minority Leader;

(3) Two members appointed by the Governor;

(4) The Attorney General or the Attorney General's designee;

(5) A member of the judicial branch who is not a judge or a justice, appointed by the Chief Justice of the Supreme Judicial Court;

(6) The chair of the Criminal Law Advisory Commission or the chair's designee;

(7) A representative of the statewide criminal defense association with the largest membership of criminal defense attorneys in the State, appointed by the President of the Senate; and

(8) A representative of a statewide prosecutors association, appointed by the Speaker of the House; and

B. Two nonvoting members who are active or retired judges or justices, appointed by the Chief Justice of the Supreme Judicial Court.

2. Chairs. The Senate member appointed by the President of the Senate and the House of Representatives member appointed by the Speaker of the House are cochairs of the commission. The commission may appoint other officers as necessary and make rules for orderly procedure.

3. Terms and vacancies. Except for Legislators and the Attorney General, who serve terms coincident with their elective offices or appointment terms, all members serve for 3-year terms and may be reappointed. A vacancy must be filled by the same appointing authority that made the original appointment. Members may continue to serve until their replacements are designated. A member may designate an alternate to serve on a temporary basis.

4. Quorum. Six voting members of the commission constitute a quorum.

§ 1374. Powers and duties

1. Duties. The commission:

A. Shall meet at least twice annually;

B. Shall examine the State's criminal laws for the purposes of their clarification to facilitate just and expedient resolutions of criminal prosecutions and to resolve or prevent statutory or policy conflicts;

C. Shall examine statutory definitions of crimes for the purpose of their consolidation;

D. Shall examine mandatory minimum and administrative penalties and costs related to crimes for policy continuity and issues surrounding the fair administration and implementation of those penalties;

E. Except for sentencing guidelines, may examine any other aspects of the State's criminal laws that may be relevant, including, but not limited to, substantive, procedural and administrative matters; and

F. Whenever the commission determines appropriate, shall seek the advice of experts, including, but not limited to, representatives of executive branch departments and nongovernmental entities, in fields related to the commission's duties and may establish advisory groups to provide research, technical and policy support.

2. Legislation. The commission may submit legislation to the Legislature to effectuate its recommendations pursuant to section 1375.

§ 1375. Report to Legislature and other entities

The commission shall submit to each second regular session of the Legislature its findings and recommendations for changes to the criminal laws and related provisions as the commission determines appropriate, including policy recommendations. The commission may also make recommendations to the Chief Justice of the Supreme Judicial Court, the Advisory Committee on Criminal Rules and the Criminal Law Advisory Commission and to any other organization or committee whose affairs pertain to the criminal justice system.

§ 1376. Chief counsel; support staff; adequate funding requirement

The Legislature, through the commission, shall contract for the following:

1. Chief counsel. A chief counsel, who has the responsibility for legal research and drafting as required in connection with the review and revision of the State's criminal laws, under the direction and supervision of the commission. The chief counsel must by virtue of prior training, experience, ability and reputation clearly demonstrate the ability to perform tasks assigned by the commission; and

2. Support staff. Support staff, which, to the extent funding permits, must provide year-round staffing support to the commission and the chief counsel. In the event funding does not permit adequate support staff, the commission may request support staff from the Legislative Council, except that Legislative Council staffing support is not authorized when the Legislature is in regular or special session. The commission may not request staffing support from the Legislative Council unless a chief counsel has been contracted pursuant to this section.

Notwithstanding the requirements of this chapter, if a majority of the commission determines that adequate funding and staffing support are not available to fully and effectively carry out the commission's duties, the commission shall postpone operations until such time as sufficient funding and staffing become available. The commission shall notify the Legislature in writing at least 30 days prior to postponing activities that it no longer has sufficient funding to continue its work.

§ 1377. Accounting; outside funding

All funds appropriated, allocated or otherwise provided to the commission must be deposited in an account separate from all other funds of the Legislature and are nonlapsing. Funds in the account may be used only for the purposes of the commission. The commission may seek and accept outside funding, including, but not limited to, federal funds, to fulfill commission duties. Prompt notice of solicitation and acceptance of funds must be sent to the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council, along with an accounting that includes the amount received, the date that amount was received, from whom that amount was received, the purpose of the donation and any limitation on use of the funds. The executive director shall administer all funds received in accordance with this section. At the beginning of each fiscal year, and at any other time at the request of the cochairs of the commission, the executive director shall provide to the commission an accounting of all funds, including funds for staffing, available to the commission.

§ 1378. Compensation

Legislators who are members of the commission are entitled to receive the legislative per diem and expenses as defined in Title 3, section 2 for their attendance to their duties under this chapter. Other members are entitled to receive reimbursement of necessary expenses if they are not otherwise reimbursed by their employers or others whom they represent.

§ 1379. Repeal

This chapter is repealed on October 1, 2017.

Sec. 3. Initial work. Notwithstanding the Maine Revised Statutes, Title 17-A, chapter 56, which specifies the Criminal Law Revision Commission must examine all the State's criminal statutes within the Maine Revised Statutes, the commission shall initially examine only Title 17-A and report its findings and recommendations to the Second Regular Session of the 127th Legislature.

Sec. 4. Staggered terms and specific appointments. Notwithstanding the Maine Revised Statutes, Title 17-A, section 1373, members initially appointed to the Criminal Law Revision Commission are appointed as follows.

1. The appointments by the Governor are for terms of one year.

2. The appointment by the President of the Senate of a representative from a statewide criminal defense association must be of a member of the Maine Association of Criminal Defense Lawyers recommended by that association, and that appointment is for a term of 2 years.

3. The appointment by the Speaker of the House of a representative from a statewide prosecutors association must be of a member of the Maine Prosecutors Association recommended by that association, and that appointment is for a term of 2 years.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Criminal Law Revision Commission N167

Initiative: Provides funds to contract for staff assistance for the Criminal Law Revision Commission. These funds may not lapse but must be carried forward for the same purpose.

GENERAL FUND	2013-14	2014-15
All Other	\$155,000	\$2,500
GENERAL FUND TOTAL	\$155,000	\$2,500

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

SUMMARY

This bill is an emergency measure and:

1. Establishes the 13-member Criminal Law Revision Commission for the purpose of examining all criminal statutes within the Maine Revised Statutes and the administration of those statutes to ensure their clarity and consistency, the proportionality of penalties to offenses and the effectuation of policy objectives;

2. Provides that the membership of the commission must include 4 members of the joint standing committee of the Legislature having jurisdiction over criminal justice matters, the Attorney General or a designee, a member of the judicial branch who is not a judge or a justice, the chair of the Criminal Law Advisory Commission or a designee, a member representing a statewide criminal defense association, a member representing a statewide prosecutors association and 2 members appointed by the Governor. It also provides for 2 nonvoting members who are active or retired judges or justices;

3. Directs the commission to begin its work with the Maine Criminal Code before working on crimes outside of the Maine Criminal Code. It also requires the commission to report its findings and recommendations to the second regular session of each Legislature starting with the 127th Legislature and authorizes the commission to submit legislation to effectuate its recommendations;

4. Provides that operations and staffing of the commission are dependent on adequate funding and that the commission must postpone its operations if funding and staffing levels are not sufficient to allow the commission to fully and effectively carry out its duties. The commission must notify the Legislature in writing at least 30 days prior to postponing activities that it no longer has sufficient funding to continue its work;

5. Provides that, if funding is not available for staffing support, the commission may request staffing assistance from the Legislative Council, subject to certain restrictions;

6. Provides an appropriation of \$155,000 in fiscal year 2013-14 and \$2,500 every year thereafter to contract for a chief counsel and staffing support; and

7. Repeals the Criminal Law Revision Commission on October 1, 2017.