

CLAC MEMORANDUM/TESTIMONY
LDs 994 and 1545
(NFNA; Drafting Option)

TO: Senator Anne Beebe-Center
Representative Suzanne Salisbury
Joint Standing Committee on Criminal Justice and Public Safety

FR: Criminal Law Advisory Commission (CLAC)
c/o laura.yustak@maine.gov

RE: LD 994, An Act to Include Possession of Compounds, Mixtures or Substances Containing a Detectable Amount of Certain Scheduled Drugs to Prove the Offense of Unlawful Trafficking of Scheduled Drugs
LD 1545, An Act to Reduce Drug Overdose and Death by Expanding the Crime of Aggravated Trafficking of Scheduled Drugs by Including Compounds, Mixtures or Substances

DA: April 18, 2023

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony neither for nor against LDs 994 and 1545.

The bills seek to premise criminal liability on the existence of any amount of the identified illegal substances in the mixture, compound or substance at issue. For the most part, the proposed changes reflect what is already in the current law, and are therefore unnecessary. This is because Maine’s statutes currently incorporate this concept, given the definitions of cocaine, fentanyl, and heroin in 17-A M.R.S. § 1101, which use the terms “in any quantity” or “any quantity.”

The Legislature has not taken the same approach with respect to the statutes related to amphetamines and methamphetamine. Thus if the Legislature chooses to treat drug crimes involving those substances consistently with the illegal substances as above, the statutes require amendment. CLAC did not have sufficient time to develop a technically correct drafting recommendation that would best serve such a goal. If in fact the Committee opts for such an approach and the Committee’s analyst requests further input, one or more of our members will attempt to assist.

*CLAC is an advisory body established by the Legislature. 17-A M.R.S. §§ 1351-1357. It consists of 9 members appointed by the Attorney General. Our current members include current defense attorneys, prosecutors, Maine Bar Counsel, and a retired practitioner with experience as defense counsel, prosecutor and in court administration. In addition, three sitting judges and one retired practitioner, appointed by the Chief Justice of the Supreme Judicial Court, and, by statute, the Co-Chairs of the Legislature’s Committee on Criminal Justice and Public Safety, serve as consultants. The Supreme Judicial Court’s Criminal Process Manager serves as liaison from the Court to CLAC. CLAC advises the Legislature on matters relating to crimes in the Criminal Code and in other Titles, the Bail and Juvenile Codes, and with respect to other statutes related to criminal justice processes.