

CLAC MEMORANDUM/TESTIMONY
LD 551 (Opposed)

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 551, An Act to Strengthen Maine Citizens' Second Amendment Rights by Allowing the Discharge of Firearms on Private Property That Is Within 500 Feet of School Property in Certain Circumstances

DA: May 8, 2023

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony in opposition to LD 551.

LD 551 would create a law inconsistent with the Criminal Code statutes governing the lawful use of deadly force. It would confuse juries tasked with applying the laws that authorize the use of such force in limited circumstances. 17-A M.R.S. § 108. It does not recognize that deadly force might be used by persons other than residents of the property, and would thus give some people more rights than others based on a circumstance unrelated to whether the person is legally authorized to use deadly force. It also does not recognize that deadly force can be used in limited circumstances to defend third persons. In addition, it is not drafted in terms of a defense or affirmative defense, and thus is not consistent with the drafting conventions of the Criminal Code. Finally, CLAC was not aware of circumstances where the existing law interfered with individuals' rights to defend themselves, and thus questions the need for such a change.

*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.