

CLAC MEMORANDUM/TESTIMONY
LD 1790 (NFNA)

TO: Senator Anne Carney
Representative Matt Moonen
Joint Standing Committee on Judiciary

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

RE: LD 1790, An Act Removing the Statute of Limitations on Criminal and Civil Actions
Involving Sexual Abuse of Minors

DA: May 10, 2023

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony regarding LD 1790.

CLAC takes no position with respect to Section 1 of the bill, which pertains to civil statutes of limitations.

CLAC is not commenting on the policy of extending the statute of limitations for the designated crimes. However, CLAC does not support Section 2 in its current form, given drafting concerns members have noted.

We note first that existing paragraph 8(1)(B) and proposed paragraph 8(1)(C) overlap; some crimes fall into both provisions. Drafting issues include the following: Paragraph C is drafted with reference to an age limit (18) that is often not an element of the crime—In many instances in Chapters 11 and 12, the crimes against children are defined with reference to the victim not having attained the age of 16, 14 or 12. In addition, it would be simpler to designate a specific date rather than to reference the effective date generally (crimes “committed on or after the effective date of this paragraph”), as readers of the statute will not know the effective date of the law without further research.

In order to make the provision more consistent with existing paragraph B, it might be constructed as follows: “If the victim had not attained the age of 18 [or other age designated by the Legislature] at the time of the crime, a prosecution for a crime defined within chapter 11 or chapter 12. This paragraph applies to conduct committed on or after [date].” (This language is consistent with the bill; it does not change the policy promoted by the LD of eliminating the limitations period for more crimes.)

The crime of incest, 17-A M.R.S. § 556, is not within Chapter 11 or 12. We offer this observation solely to notify the Legislature that incest involving a victim under 16 would remain within existing paragraph B; and incest involving a victim aged 16 or 17 would remain subject, as it currently is, to the general limitations periods applicable to Class D (three years) and C crimes (six years) in 17-A M.R.S. § 8(2).

*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.