

CLAC MEMORANDUM/TESTIMONY
LD 2204 (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 2204, An Act to Combat Racketeering in Scheduled Drugs by Certain Organizations

DA: February 20, 2024

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony in opposition to LD 2204. In the course of our discussion of the bill, CLAC members noted the following.

In deliberating on the policy of whether Maine should adopt a racketeering statute, the Legislature should consider whether prosecutions of criminal enterprises engaged in organized crime are more appropriately pursued by federal authorities with greater resources to investigate and prosecute complex criminal enterprises that reach across jurisdictional lines.

CLAC members noted that this proposal would apply the proposed anti-racketeering laws only to drug crimes. Some jurisdictions with racketeering laws apply those laws to other types of criminal conduct as well. If the Legislature were to contemplate enacting laws to combat organized crime, it would be appropriate to consider whether the approach should be limited to drug crimes, or also applied to other types of criminal conduct and enterprises.

The bill proposes punishments that deviate from Maine's classification structure for crimes, proposes to include civil remedies in the Criminal Code, and would require prosecutors and criminal courts to assume roles and fashion remedies not currently part of Maine's sentencing laws. Amendments to sentencing statutes in Part 6 of the Criminal Code would be required to reconcile existing law with the sentencing variations and options put forth in proposed Chapter 46.

The proposed real estate forfeiture provisions appear to conflict with the prohibition against forfeiture of real estate for crimes involving marijuana. 15 M.R.S. § 5821(7).

Provisions related to ownership of real property in proposed Section 3 of the bill may be subject to challenge on constitutional and preemption grounds.

Regulatory options associated with power consumption and permits may open avenues for intervention and criminal investigation, but the expertise of CLAC members does not extend to utilities regulation, and we thus can offer no further guidance in this area.

*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.