

CLAC MEMORANDUM/TESTIMONY
LD 2218 (NFNA)

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

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

RE: LD 2218, An Act to Remove the Age-related Statutory Prerequisite for Sealing Criminal History Record Information

DA: March 14, 2024

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony neither for nor against LD 2218.

We note that repealing sub-section 6 of 15 M.R.S. § 2262 would allow sealing to be available to a person who committed an eligible crime at any age. The age limitation in the current statute creates a window—the person has to have engaged in the criminal conduct while being at least 18 but no more than 27. When the sealing law was first enacted, the bill was limited to persons who had engaged in low-level criminal conduct as young adults. P.L. 2015, c. 354 (age limit—18-20).

Although the proposal would eliminate the requirement that the person be at least 18 at the time of the crime, it would not apply to juvenile adjudications, which are governed by separate and more expansive confidentiality and sealing provisions in the Juvenile Code and which are not considered “convictions” in the first instance. See 15 M.R.S. § 3103(1) (definition of “juvenile crime”); 15 M.R.S. § 3308-C(1) (sealing); 15 MRS §§ 3308-C, 3308-D (confidentiality of juvenile case records and proceedings). With respect to persons under 18, the new sealing provision would apply to those eligible crimes that are treated as adult offenses, even when committed by persons under 18, for example, crimes under Title 12 and 29-A that do not involve OUI (drugs or alcohol).

*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.