

CLAC MEMORANDUM/TESTIMONY (OPPOSED)
LD 340, An Act Regarding Speedy Trials

TO: Senator Anne Carney
Representative Amy Kuhn
Joint Standing Committee on Judiciary

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

RE: LD 340, An Act Regarding Speedy Trials

DA: March 3, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony regarding LD 340.

Prompt adjudication of criminal charges benefits both victims and accused persons, especially persons in custody or subject to significant bail restrictions. Indeed, the right to a speedy trial is constitutionally protected. *Winchester v. State*, 2023 ME. 23. However, a majority of CLAC members are opposed to the current bill. Two members support the bill, but with changes to include expanded discretion for the court regarding time calculations, and a requirement for the defendant to request a speedy trial, changes similarly supported by all those present for the discussion. Although investigation by the State and defendants, analysis of physical evidence, and psychological evaluations can take months in complex cases, evidence generally does not improve over time. At times delay can inure to the benefit of and in some cases even be sought by a defendant, hence the suggestion that a defendant be required to request speedy trial.

Statutory speedy trial requirements that set hard deadlines recognize the importance of seeking justice for all parties as swiftly as possible while going beyond the flexible analysis that is constitutionally required. *See, e.g., Winchester v. State*, 2023 ME 23. Any deadlines should not sacrifice justice for victims and forego perpetrator accountability without adequate resources necessary to, for example, clean up existing trial backlogs, process new cases, litigate legal questions presented by substantive motions, and accommodate dispositional and settlement conferences. The “general congestion of the court calendar” should not be excluded from consideration when considering whether a deadline should be extended when the court system and necessary components of the criminal justice system are not fully funded or staffed. Such a factor would be particularly relevant at the time speedy trial deadlines are initially implemented, as the court and parties determine how to prioritize pending cases vis-à-vis newly filed cases subject to the new deadlines, or in the event of catastrophic events such as the Covid-19 pandemic or natural disaster that affect staffing and infrastructure.

The law could provide for delay attributable to resolving substantive motions (as in the federal system, where a defense motion stops the clock). It could grant the court authority to fashion other remedies if statutory time limits are not met, rather than mandatory dismissal. Dismissal might be premised on a showing of prejudice to the defendant. The legislation could also recognize a general discretionary authority of the court to consider factors that may provide

good cause to toll deadlines or fashion remedies other than dismissal where unforeseen events delay trial (for example, illness of a victim or necessary witness who is unable to testify, or of counsel).

CLAC members recognize that the current bill sets implementation deadlines further in the future. Given the reality of limited resources, CLAC members remain concerned about imposing time limits likely to result in dismissals and thus possible injustices. In light of that reality, requiring speedy trial requests, requiring a showing of prejudice if timelines are not met, treating unmet deadlines as presumptively prejudicial and subject to a balancing of interests rather than mandating dismissal, and allowing courts more discretion to consider what factors caused any delay and to fashion remedies to serve the interests of justice are examples of some approaches that could reduce the likelihood of negative outcomes.

*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.