

## CLAC MEMORANDUM/TESTIMONY

### In Opposition of LD #486

An Act to Remove the Duty of an Individual Exercising Self-Defense to Safely Retreat or Abstain from Performing Certain Acts upon Demand

TO: Senator Anne Beebe-Center  
Representative Tavis Hasenfus  
Joint Standing Committee on Criminal Justice and Public Safety

FR: Criminal Law Advisory Commission (CLAC)

RE: LD #486 An Act to Remove the Duty of an Individual Exercising Self-Defense to Safely Retreat or Abstain from Performing Certain Acts upon Demand

DA: March 10, 2025

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The Criminal Law Advisory Commission (CLAC)\* respectfully submits the following testimony on LD #486.

CLAC strongly opposes LD# 486 for the same reasons it has consistently opposed prior iterations of this LD (*See* CLAC's memo dated May 5, 2019 in reference to LD #533 and CLAC's memo dated May 9, 2023 in reference to LD #1560, attached). CLAC members believe that when someone can, with complete safety, avoid the use of deadly force he or she should do so.

\*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 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.

MEMO

TO: Committee on Criminal Justice and Public Safety

FROM: Criminal Law Advisory Commission (CLAC)

RE: L.D. 553

Date: May 5, 2019

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CLAC members strongly oppose passage of LD 553. The bill would alter Maine's law on the use of deadly force for self-defense by eliminating the duty to retreat when the person can do so with complete safety.

Again, the obligation to retreat only arises when the person can do so with complete safety. In such a circumstance, the use of force is not necessary to avoid death or serious bodily injury. Accordingly, the underlying rationale for the use of deadly force is not present. CLAC members do not believe that self-defense should justify the use of deadly force when that use can be avoided "with complete safety." The existing law is appropriate.

CLAC MEMORANDUM/TESTIMONY  
LD 1560 (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](mailto:laura.yustak@maine.gov)

RE: LD 1560, An Act to Remove the Duty of an Individual Exercising Self-defense to Safely Retreat or Abstain from Performing Certain Acts upon Demand

DA: May 9, 2023

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The Criminal Law Advisory Commission (CLAC)\* respectfully submits the following testimony in opposition to LD 1560.

Under current Maine law, deadly force is justified (legal) in certain situations to defend oneself or others. These include protecting oneself or another from the imminent use of unlawful deadly force, kidnapping, robbery, or gross sexual assault involving compulsion, or protecting oneself or another from bodily injury about to be inflicted by a person who has entered or surreptitiously remained in a dwelling without the right to do so. There is an objective standard built into the law, as it is premised on a person's "reasonable beliefs" about the other person's actions and the necessity of using deadly force. 17-A M.R.S. § 108(2)(A),(B). (Deadly force is also justified in certain circumstances in defense of premises. See 17-A M.R.S. § 104. Section 104 would not be amended by LD 1560.)

However, as relevant to this bill, and under current law, a person is not justified in using deadly force if that person (or the third party being protected) can, with complete safety, retreat from an encounter, or refrain from doing some act that he/she is not required to do. 17-A M.R.S. § 108(2)(C)(3)(a),(c). This duty to retreat is not required if a person is in one's own home and is not the initial aggressor. 17-A M.R.S. § 108(2)(C)(3)(a). LD 1560 would eliminate the requirement that a person must retreat if it is safe to do so, and would eliminate the obligation to refrain from doing something that a person is not legally obligated to do. People would thus be authorized to use deadly force to defend themselves or others instead of retreating safely or refraining from doing some act.

Maine's current self-defense law represents a long-standing policy embraced by the Maine Legislature that it is better for a person to safely retreat or refrain from doing some other act when possible rather than to use deadly force against another human being. When a person can safely retreat, the rationale for using deadly force—that a person must kill to avoid being killed or seriously injured---is not present. CLAC members believe that the current duty to retreat or refrain is limited and reflects an appropriate balance, and that altering it as proposed would make Mainers less safe.

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