

CLAC MEMORANDUM/TESTIMONY OPPOSED
LD 962, An Act to Establish the Offense of Aggravated Operating Under the Influence
Resulting in the Death of a Pet

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

FR: Criminal Law Advisory Commission (CLAC)
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RE: LD 962, An Act to Establish the Offense of Aggravated Operating Under the Influence
Resulting in the Death of a Pet

DA: March 31, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony opposed to LD 962 as unnecessary and inconsistent with other criminal laws.

The legislation is unnecessary because this conduct can currently be prosecuted under the statutes criminalizing cruelty to animals and operating under the influence. 17 M.R.S. § 1031 (cruelty to animals, Class D; aggravated cruelty, Class C); 29-A M.R.S. § 2911 (OUI, Class D, C or B, depending on statutorily defined circumstances). In addition, the death of a pet resulting from defendant's conduct can be argued to the court as an aggravating circumstance at the time of sentencing on an OUI.

The proposal regarding restitution is inconsistent with current statutes pertaining to restitution for criminal convictions, 17-A M.R.S., Chapter 69, and provides for monetary recovery traditionally litigated outside criminal proceedings (e.g., civil lawsuits for damages stemming from emotional distress).

The proposed maximum fine and imprisonment amounts are inconsistent with the statutory maximums that apply to Class C crimes (incarceration: 5 years; fine: \$5000) 17-A M.R.S. §§ 1604(1)(C); 1704(3).

CLAC generally opposes the creation of new mandatory minimum sentencing laws as unduly restricting the discretion of the sentencing court to impose appropriate sanctions and limiting the parties' ability to negotiate results that take into consideration all of the circumstances of the crime, the offender, and the victim.

*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.