

CLAC MEMORANDUM/TESTIMONY OPPOSED
LD 1146, An Act Regarding the Required State of Mind Relating to Robbery

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 1146, An Act Regarding the Required State of Mind Relating to Robbery

DA: April 14, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony in opposition to LD 1146.

Maine’s robbery statute already includes a culpable mental state with respect to the intent of the threat, as required by *Counterman v Colorado*, 600 U.S. 66 (2023). CLAC views the proposed additional language as legally unnecessary.

The form of robbery premised on a threat includes, as a required element, that the actor, in conveying a threat, be acting with the intent “(1) To prevent or overcome resistance to the taking of the property, or to the retention of the property immediately after the taking; or (2) To compel the person in control of the property to give it up or to engage in other conduct that aids in the taking or carrying away of the property.” 17-A M.R.S. § 651(1)(B). Maine’s statute exceeds the “recklessness” standard required by *Counterman*, as the statute requires that the actor “intend” (have the conscious object) to cause a result, as opposed to merely being reckless (consciously disregarding a risk) with respect to the result of the threat. 17-A M.R.S. § 35 (definitions of culpable state of mind).

The addition of another culpable mental state element would unnecessarily complicate the statute and jury instructions for practitioners and jurors.

*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.