

CLAC MEMORANDUM/TESTIMONY NFNA  
LD 1263, An Act Regarding Penalties for Fentanyl Trafficking When That Trafficking  
Results in an Overdose Causing Serious Bodily Injury of a Person

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 1263, An Act Regarding Penalties for Fentanyl Trafficking When That Trafficking  
Results in an Overdose Causing Serious Bodily Injury of a Person

DA: April 14, 2025

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The Criminal Law Advisory Commission (CLAC)\* respectfully submits the following testimony neither for nor against LD 1263.

Aggravated trafficking of a Schedule W drug (including fentanyl) that results in serious bodily injury is currently classified as a Class B crime, punishable by a term of imprisonment of up to ten years. Aggravated trafficking of a Schedule W drug (including fentanyl) that results in death is currently classified as a Class A crime, punishable by imprisonment of up to thirty years. One question for the Legislature is whether to put conduct with very different results (serious bodily injury as opposed to death) in the same sentencing class (both Class A). Another question for the Legislature is whether fentanyl, unlike other Schedule W drugs, should be subject to different treatment in terms of classification and sentencing.

Should the Legislature move forward with the proposal, CLAC recommends striking the language “resulting from [an/the] overdose” in lines 9 and 12 of the bill, as it adds an unnecessary element of proof that could create confusion. The remaining language should be sufficient to require that the State prove that the trafficked fentanyl have caused the serious bodily injury.

CLAC inquired of a prosecutor supervising drug prosecutions statewide, who was not aware of convictions for aggravated trafficking resulting in serious bodily injury that resulted in sentences at or near the ten-year maximum.

\*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.