

CLAC MEMORANDUM/TESTIMONY NFNA
LD 1288, An Act to Amend Certain Provisions of Maine's Drug Laws Regarding
Heroin, Fentanyl and Cocaine

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

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

RE: LD 1288, An Act to Amend Certain Provisions of Maine's Drug Laws Regarding Heroin,
Fentanyl and Cocaine

DA: April 14, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony neither for nor against LD 1288.

LD 1288 reverses policy decisions made by the Legislature in enacting P.L. 2021, c. 396. CLAC members expressed the concern that reverting back to previous iterations of the statutes would treat conduct of possessing heroin, fentanyl and cocaine in certain quantities as the equivalent of furnishing or trafficking, even where the drug possessed is for personal use, because it would not require the State to present evidence beyond the quantities of the intent to furnish or traffick. CLAC members view the current requirement to prove facts related to trafficking and furnishing as an appropriate burden for the State. In addition, the bill would reinstate disparate treatment of cocaine and cocaine base.

*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.