

CLAC MEMORANDUM/TESTIMONY OPPOSED AS DRAFTED
LD 648, An Act to Expand the Supervised Community Confinement Program

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 648, An Act to Expand the Supervised Community Confinement Program

DA: April 23, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony opposing LD 648 as drafted.

CLAC members were not opposed in theory to changes to the Supervised Community Confinement Program, but did not support this bill as drafted, with the exception of one member, as noted further below. (A proposed amendment from the bill's sponsor was not available to CLAC at the time of review.)

The proposal benefits persons convicted of the most serious crimes who have been sentenced to significant periods of incarceration after a deliberative and involved sentencing process. Members noted that sentencing is complex, and members of the bench and bar take a considered approach, presenting and considering factual circumstances regarding the crime, the offender, the impact on the victim, and protection of the public. The ultimate sentence takes into account but is not premised only on rehabilitative potential. See 17-A M.R.S. § 1501 ("Purposes" of sentencing), § 1602 ("Sentencing procedure" for felony-level crimes). In the absence of appealable error, the commutation process is one constitutionally permitted avenue to reconsider sentences that may no longer be appropriate or necessary to serve the purposes for which they were imposed.

CLAC members supported retaining an approach to eligibility based on a percentage (of the sentence served) coupled with a period of time remaining, rather than the person having served a set number of years. Using a period of years (15, as proposed in the bill) could inadvertently penalize persons subject to shorter sentences and disproportionately benefit persons sentenced to longer periods of incarceration. The one member who supported the bill also had concerns about this particular provision.

CLAC opposed expanding eligibility to persons who had not maintained the custody classification level of minimum. A person who has successfully maintained a minimum custody classification may be more likely to be engaged in rehabilitative efforts and programs.

The member who supported the bill also noted that an expansion of the SCCP program might exclude certain crimes (e.g., murder, domestic violence, sexual assault, crimes against children).

Some information was not available at the time of the meeting. CLAC members had questions about how many additional persons might be eligible for an expanded program as contemplated; what the conditions of supervision would be and how those might differ from probation; and specifics around custody classification (e.g., how does a person achieve and what type of conduct might result in a person losing minimum custody status).

*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.