

CLAC MEMORANDUM/TESTIMONY OPPOSED
LD 1536, An Act to Amend the Laws Governing Bail

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 1536, An Act to Amend the Laws Governing Bail

DA: April 23, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony opposed to LD 1536.

CLAC is opposed to reversing the changes the Legislature made in Public Law 2021, Chapter 397. Members recall that the Bail Code was amended in 2021 after input from multiple stakeholders, and are not aware of adverse consequences being reported by practitioners as a result of these changes. More specifically, considerations such as health care needs, caretaking responsibilities, and maintaining employment (which would be eliminated by Section 5) are factors that can relate an individual's likelihood of abiding with conditions, refraining from new criminal conduct, and appearing as required, as well as to public safety, and are thus appropriate for consideration when setting bail. Elimination of the language regarding inability to pay the bail commissioner's fee (Section 1) could result in some people remaining in custody. CLAC members also noted that restoring the provision that defendants report to their counsel as a condition of bail (Section 3) has the potential to create ethical conflicts for defense counsel.

*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.