

CLAC MEMORANDUM/TESTIMONY OPPOSED
LD 1877, An Act to Increase Penalties For Human Trafficking Offenses

TO: Senator Carney
Representative Amy Kuhn
Joint Standing Committee on Judiciary

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

RE: LD 1877, An Act to Increase Penalties for Human Trafficking Offenses

DA: May 12, 2025

The Criminal Law Advisory Commission (CLAC)* agrees that human trafficking and sex trafficking must be prosecuted and penalized to the extent possible, particularly when that conduct preys on the most vulnerable persons. However, given the sentencing provisions in LD 1877, CLAC respectfully submits the following testimony in opposition to the bill.

As a general matter, CLAC does not endorse mandatory sentences. The Criminal Code gives judges broad discretion, within parameters set by the Legislature, to address the conduct of each individual offender and to tailor sentences to the circumstances of each case, including the harm to the victim and the history and circumstances of the offender, while taking into consideration the purposes of sentencing. 17-A M.R.S. §§ 1501(Purposes), 1602 (Sentencing procedure), 1807 (Conditions of probation).

Mandatory sentences can have unintended consequences, which may diminish respect for the criminal justice system. A mandatory sentence may not be the appropriate sanction in a particular case, because it does not account for the many different circumstances and situations of each defendant and victim. As a result, to avoid an unduly harsh result, prosecutors may charge a different crime, or the prosecution and defense may negotiate pleas to charges other than those that require a certain sentence. Mandatory sentences can also force more trials, to the detriment of victims, because a defendant otherwise willing to accept responsibility, when faced with a non-negotiable mandatory sentence, may opt to go to trial in the hope of acquittal. In addition, specific sentencing proposals in the bill disregard the current sentencing classification structure, setting minimum sentences at, near or even outside the current 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.