

CLAC MEMORANDUM/TESTIMONY
LD 2157, An Act to Prohibit the Unauthorized Use of Drones on or over the
Premises of Correctional Facilities and Jails

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, CLAC Chair

RE: LD 2157

DA: February 6, 2026

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony opposed to LD 2157 as currently drafted. CLAC's opposition stems from questions about the drafting approach, which we recognize may be addressed or resolved by the Department.

CLAC members noted that the conduct described in proposed § 761(1) ("use of a drone to convey or attempt to convey prison contraband in violation of section 757") could be charged under existing 17-A M.R.S. § 757. The proposal essentially creates a separate statute to criminalize a particular method of trafficking prison contraband.

Proposed § 761(1) does not include a culpable mental state. The manner in which it incorporates section 757 implies that the conduct must be committed "intentionally" (as in section 757). The culpable mental state element should be clarified.

Proposed § 761(2) is drafted as a strict liability crime ("...if a person *in fact* flies a drone..."). This drafting approach would subject a person to Class C prosecution for inadvertently flying a drone over a facility at or below 400 feet, and thus appears overly broad. CLAC members questioned whether there is a substantive difference in level of seriousness of the conduct between flying over a facility (recognizing that there is a security risk inherent in the ability of drones to record or photograph the premises, and that such conduct would not fall within existing section 757), and landing on or flying from the premises, but we did not have information regarding the reasons underlying the proposal.

*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.