

CLAC MEMORANDUM/TESTIMONY
LD 2119 (NFNA)

TO: Senator Anne Carney
Representative Matt Moonen
Joint Standing Committee on Judiciary

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

RE: LD 2119, An Act to Support Suicide Prevention by Allowing the Voluntary Waiver of
Firearm Rights

DA: February 29, 2024

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony neither for nor against LD 2119.

CLAC strongly supports legislative, public health and educational efforts to intervene early and at any identified crisis points to assist persons in distress and to reduce the likelihood of self-harm. Our discussion focused on how an effort such as that contemplated by LD 2119 might be implemented. In this context, members questioned whether court clerks were the most appropriate personnel to receive, process, and transmit the waivers and revocations described in the bill. CLAC defers to the affected agencies to address the logistics of such a process. We identified the following drafting issues:

The language at proposed § 2015(4) is not needed, given the definition of unsworn falsification at 17-A M.R.S. § 453. The proposed language may also be unnecessarily limiting, in that the conduct may meet the elements of other crimes, including forgery and aggravated forgery. See 17-A M.R.S. §§ 701-703.

The language at proposed § 2015(5) is drafted broadly, and could prevent use of the waiver or revocation in appropriate circumstances (e.g., prosecution for unsworn falsification or forgery for falsely completing the form; prosecution pursuant to 15 M.R.S. § 394, if amended as proposed). CLAC recommends that the language be tailored to more specifically identify the circumstances in which the Legislature seeks to prevent use of the waiver or revocation.

*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 current 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.