

CLAC MEMORANDUM/TESTIMONY (NFNA)
LD 418, An Act to Remand Individuals with Pending State Probation Violations
to the Department of Corrections Following Initial Proceedings

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

FR: Criminal Law Advisory Commission (CLAC)
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RE: LD 418, An Act to Remand Individuals with Pending State Probation Violations
to the Department of Corrections Following Initial Proceedings

DA: February 24, 2025

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony neither for nor against LD 418.

CLAC's understanding is that there may be impediments to placing defendants subject to probation violations in county or local jails. It may be appropriate for defendants with underlying Dept. of Corrections sentences to be held in the custody of the DOC. However, such placement could have the potential to interfere with the ability of clients and their local counsel to maintain direct contact.

Another aspect of implementation of the proposal has to do with scheduling. As a practical matter, where the same conduct provides the basis for a new charge and a probation violation, the parties may request to address the new charges first and allow the probation violation motion to follow the court's timeline on the new charges, despite the requirements of 17-A M.R.S. § 1811(4) (hearing on PV within 45 days for person committed without bail). A defendant being remanded to DOC might complicate and potentially delay addressing charges absent communication in advance regarding scheduling of and required transportation for any proceedings requiring the defendant's presence.

*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.