

**OFFICE OF POLICY AND LEGAL ANALYSIS
BILL ANALYSIS**

TO: Members, Joint Standing Committee on Criminal Justice and Public Safety

FROM: Jane Orbeton, Legislative Analyst

DATE: April 19, 2021

LD: 1192 An Act Concerning the Composition of the Criminal Law Advisory Commission

Summary

This bill amends the membership of the Criminal Law Advisory Commission (CLAC) to require the membership to include 2 law enforcement officers - one from a state law enforcement agency and one from a county or municipal law enforcement agency. This bill does not increase the number of members on CLAC, which is set as 9. The bill requires the chair of CLAC to provide written notice of each commission meeting to every state, county and municipal law enforcement agency in the State.

Testimony

Proponents:

1. Representative Tuell presented the bill and spoke in support.
2. Rebecca Graham, representing Maine Municipal Association spoke in favor and suggested designating 3 law enforcement agency members: state agency, county agency and municipal agency.

Opponents:

1. Michael Kebede, for the ACLU, testified and submitted testimony in opposition, citing the balance of perspectives on CLAC, the need to be expert in the Criminal Code and criminal case law, and that prosecutors represent the law enforcement viewpoint.
2. John Pelletier, representing CLAC, spoke and submitted testimony against the bill from an identical bill in the 129th Legislature, LD 134. Mr. Pelletier noted that CLAC is not a stakeholder group and that it provides its best advice and does not lobby for any position. Mr. Pelletier agreed with Mr. Kebede that prosecutors are law enforcement officers and work with law enforcement agencies on a daily basis. Mr. Pelletier mentioned the outreach that CLAC has been doing to law enforcement agencies and that attendance has not increased although the meetings are open to the public. Mr. Pelletier stated that CLAC's focus is on maintaining the structure of the Criminal Code, Bail Code and Juvenile Code. Mr. Pelletier noted that the bill does not increase the total membership on CLAC and so upsets the balance of members.

Neither for nor against:

None.

TITLE 17-A, PART 4, REVISION OF CRIMINAL LAWS, CHAPTER 55

CRIMINAL LAW ADVISORY COMMISSION

§1351. Establishment

The Criminal Law Advisory Commission, established by Title 5, section 12004-I, subsection 52, is created for the purpose of conducting a continuing study of the criminal law of Maine.

§1352. Membership; terms; vacancies

1. The commission shall be composed of 9 members to be appointed by the Attorney General. The members shall be qualified by reason of their experience in the prosecution or defense of criminal cases or by reason of their knowledge of the criminal law. At least 2 members shall be qualified by reason of their knowledge of juvenile law.

2. Members of the commission shall serve for a term of 2 years and may be reappointed.

3. In the event of the death or resignation of a member, the vacancy for the member's unexpired term must be filled by the Attorney General.

§1353. Consultants; experts

1. The Senate and House chairs of the joint standing committee of the Legislature having jurisdiction over the Maine Criminal Code and the Maine Juvenile Code, or their designees, serve as consultants to the commission. The Chief Justice of the Supreme Judicial Court shall appoint 4 consultants to the commission, at least one of whom must be an active member of the Superior Court and at least one of whom must be an active member of the District Court.

2. Whenever it deems it appropriate, the commission shall seek the advice of experts, including representatives of the executive departments, in fields related to its duties.

§1354. Duties

1. It shall be the duty of the commission:

A. To examine the sections of the Revised Statutes outside of the Criminal Code which pertain to the criminal law and to draft such amendments to those sections as the commission deems advisable in light of the Criminal Code;

B. To evaluate the operation of the Criminal Code and to recommend amendments to the code based on such evaluation;

C. To examine the present laws pertaining to criminal pleadings and to consider possible changes, including, but not limited to, the adoption of code pleading and the preparation of pleading forms;

D. To examine any other aspects of Maine's criminal law, including substantive, procedural and administrative matters, which the commission deems relevant; and

E. To evaluate the operation of the Maine Juvenile Code, Title 15, Part 6, and to recommend amendments to that code based on that evaluation.

2. The commission shall submit to the Legislature, at the start of each session, such changes in the criminal laws and in related provisions as the commission may determine appropriate. The commission may also make recommendations to the Chief Justice of the Supreme Judicial Court, the Advisory Committee on Criminal Rules and to any other organization or committee whose affairs pertain to the criminal justice system.

§1355. Organization; staff

1. The Attorney General shall notify all members of the time and place of the first meeting. At that time the commission shall organize, elect a chair, vice-chair and secretary-treasurer and adopt rules as to the administration of the commission and its affairs. The commission shall maintain such financial records as may be required by the State Auditor.

2. Within the limits of its budget, the commission shall be authorized to contract and employ staff members, who need not be residents of this State, to assist in the legal research and drafting required in connection with the duties of the commission.

§1356. Reimbursement of expenses

The members of the commission shall be compensated according to the provisions of Title 5, chapter 379.

§1357. Federal funds

The commission shall be authorized on behalf of the State to accept federal funds and may seek the advice and assistance of the Criminal Justice Planning and Assistance Agency in carrying out its duties.