

CLAC MEMORANDUM/TESTIMONY
NFNA LD 1862

TO: Senator Susan Deschambault
Representative Charlotte Warren
Joint Standing Committee on Criminal Justice and Public Safety

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

RE: L.D. 1862, An Act To Strengthen Maine's Good Samaritan Laws Concerning Drug-related Medical Assistance

DA: February 8, 2022

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony neither for nor against LD 1862.

CLAC supports the goal of encouraging persons involved in drug use to call for and render assistance during medical emergencies and potential overdoses. CLAC has reviewed the original LD and initial revisions, but has not had an opportunity to review the proposed amendment dated February 3, 2022 distributed to the CJPS Committee and interested parties. Because CLAC has not had an opportunity to review that latest version in a meeting, we offer only limited testimony neither for nor against the bill.

In its discussions, CLAC has suggested that the language establishing the geographic and temporal nexus between the rendering of assistance and the conduct to be shielded from prosecution be clarified. We noted the importance of specifically identifying what criminal conduct qualifies for protection, so as to avoid unintended consequences regarding the reach of any grant of immunity or defense against new criminal charges or revocation proceedings related to bail, probation, and other forms of supervised release or community confinement. We identified process issues related to how and when to raise the issue of defense or immunity, and what standard of proof should be applied to those proceedings. Individual CLAC members have worked with the sponsors to craft language that addresses these issues.

CLAC members apologize that the membership is not available for live testimony on this matter, but will offer any support we are able in order to continue to assist with drafting or at the Work Session.

*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, and Assistant Bar Counsel. 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.