

CLAC MEMORANDUM/TESTIMONY
LD 115 (Opposed)

TO: Senator Anne Beebe-Center
Representative Suzanne Salisbury
Joint Standing Committee on Criminal Justice and Public Safety

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

RE: LD 115, An Act to Protect Minors from Exploitation by Adults for Violation of Privacy

DA: March 6, 2023

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony in opposition to LD 115.

In general, CLAC recommends against increasing the classification of crimes absent a demonstrated need that criminal sanctions currently applicable to the conduct do not provide a sufficient response to address the seriousness of the crime. The conduct described in the proposal is currently punishable as a Class D crime, punishable by incarceration of up to 364 days, 17-A M.R.S. § 1604; a fine of up to \$2,000, 17-A M.R.S. § 1704; and probation of up to one year, 17-A M.R.S. §§ 1802, 1804. Most CLAC members opposed the bill because CLAC had no information that such sanctions are not sufficient.

Whether the age of victim warrants increased classification of a crime is an important policy question for the Legislature to consider. It may be helpful to compare the sanctions under this proposal with sentences currently applicable to crimes that prohibit physical acts, contact and touching of the victim, for example, see 17-A M.R.S. § 253 (gross sexual assault); § 254, sexual abuse of minors, § 255-A (unlawful sexual contact); and § 260 (unlawful sexual touching); as well as other sex crimes against children that do not involve physical contact, § 256 (visual sexual aggression against a child—includes visual surveillance of uncovered body parts of children); § 258 (sexual misconduct with a child under 14), in order to keep the classifications logically related to how serious the Legislature considers the conduct to be. This calls for the Legislature to weigh the relative seriousness of these crimes in relation to each other, not just in isolation.

Whether the conduct underlying a conviction is appropriate for SORNA registration is obviously also an important policy consideration. The Sex Offender Management and Risk Assessment Advisory Commission, 34-A M.R.S. §§ 11401-11405, has relevant expertise in this area.

*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.