

CLAC MEMORANDUM/TESTIMONY
LD 1796 (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 1796, An Act to Protect Maine's Transit Employees

DA: May 2, 2023

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony in opposition to LD 1796.

CLAC has consistently opposed the proliferation of specialty crimes that cover conduct that is already criminalized by other statutes. CLAC has also historically opposed increasing the classification of crimes absent evidence that existing sentencing alternatives provide insufficient options to meet the goals of sentencing articulated in the Criminal Code. 17-A M.R.S. § 1501. (including rehabilitation of the offender, recognizing severity of conduct, protecting the public, encouraging restitution) This bill falls into both categories—the described conduct can be prosecuted as assault or disorderly conduct and there is no indication that sentencing alternatives are inadequate—and CLAC members were unanimously opposed to the creation of another such assault statute.

CLAC also notes that this proposal is inconsistent with other assault statutes in Maine in that it would impose criminal liability for conduct that does not even require contact with the victim (“expectorating or flinging...at...”), thus creating a new and incongruous version of assault, and it eliminates the element of bodily injury that is a necessary prerequisite for what the Legislature has previously classified as felonious conduct. See, e.g., 17-A M.R.S. § 207(1)(B) (Class C assault on a child under 6); § 752-A (Class C assault on an officer), § 752-A (Class C assault on an emergency medical care provider); § 752-E (Class C assault on a firefighter).

*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.