

Testimony of the Criminal Law Advisory Commission
LD 2163, An Act to Improve the Response to Complaints by Victims of Crime
and Enhance Victims' Rights

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

FR: Criminal Law Advisory Commission (CLAC)
c/o Laura Yustak, Chair

RE: LD 2163

DA: February 3, 2026

The Criminal Law Advisory Commission (CLAC)* notes the following with respect to the provisions below, and therefore respectfully submits this testimony in opposition to the bill as drafted. CLAC reviewed the sponsor's proposed amendment distributed by the Committee's Analyst via email dated January 28, 2026; CLAC did not convene until January 30, the day after the public hearing.

CLAC is not opposed to the policy of establishing a coordinated process for receiving and responding to victims' complaints and supports the policy of notifying victims of subpoenas for their records, assuming there are sufficient resources to support these processes.

Section 2

CLAC recommends that the purpose of the complaint process be clarified in order that it not be misunderstood as a vehicle to challenge charging, sentencing, or other discretionary decisions.

In proposed § 3360-Y(6), it may be appropriate to reference the definition of administration of criminal justice in both 16 M.R.S. § 703 and § 803.

Proposed § 3360-Y(6-A) should include an exception recognizing the State's duty to comply with constitutional discovery obligations.

Section 5

Although agreeing that victims should receive such notice, CLAC members noted the significant burden this could impose on the State, as well as the practical hurdles to requiring notice by the court (which may not have contact information) or defendant (who may be subject to no contact conditions).

Section 8

CLAC members made the following observations during our discussion of this portion of the bill. We noted that records pertaining to other witnesses may also be subject to subpoena. CLAC also questioned whether parties who are filing motions in limine seeking subpoenas for privileged or protected documentary evidence are being held to the standards in Maine Rule of Unified Criminal Procedure 17A(f), including to sufficiently set forth the "relevancy, admissibility and specificity of

the requested documents” before subpoenas are authorized. This is not a criticism of the bill; rather, education of practitioners and courts might be a possible alternative or additional approach to protecting confidential or privileged records.

Section 9

If the intent of proposed § 2111 is to ensure that the Victim Advocate/Coordinator or an attorney is permitted to speak on behalf of a victim during court proceedings in which the victim is authorized to provide input to the court, this provision could be limited to its final sentence, with additional language narrowing its application to those circumstances in which the victim has the right to address the court. As currently drafted, it would appear to grant authority to other persons to speak for a victim during investigatory interviews and case preparation, and requires clarification that it does not apply to such circumstances.

The proposed language provides that “[t]reatment of the victim may not be affected or altered in any way,” presumably to avert adverse conduct toward a represented victim, but the broadly-phrased protective language overlooks the ethical obligation of attorneys to not communicate directly with persons who are represented by counsel on the matter that is the subject of that representation, absent counsel’s consent or court order. Maine Rule of Professional Conduct 4.2.

*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. Current members include 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.