Administrative Office of the Courts

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Judicial Branch testimony in opposition to LD 888, An Act to Allow Use of Courthouse Facility Dogs by Criminal Justice Agencies for Criminal Justice Agencies:

Senator Carney, Representative Moonen, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide testimony in opposition to this bill.

Judicial Branch policy welcomes service animals. The complete policy is attached to this testimony, and is summarized on the Judicial Branch webpage called "ADA Accessibility," in the following way:

> Service animals are welcome in Maine state courts. A service animal is a dog, or can be a miniature horse, that has been specifically trained to do work or perform tasks to assist a person with a disability. Pets and animals providing comfort or emotional support are not service animals, because they do not do work or perform specific tasks associated with a person's disability and will not be allowed into the courthouse.
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> A service animal will not be denied entry into a courthouse because of allergies or fear of dogs. The person bringing a service animal into a courthouse or court facility is responsible for care and supervision of their animal. Please see the Judicial Branch Guide to the Use of Service Animals or contact the Court Access Coordinator for more information.

This policy was drafted in accordance with the federal Americans with Disabilities Act ("ADA") and the Maine Human Rights Act.

Requests for the use of comfort, therapy, and emotional support dogs can always be made to the Court Access Coordinator and presiding Judge or Justice. Vulnerable witnesses may seek and are granted accommodations from the courts so that they may be provided a secure or

sequestered space or be allowed to bring a support *person* with them. Such requests have been made in the past and have been granted on a case-by-case basis.

LD 888 allows the proposed "courthouse facility dog team" unfettered access to all public areas of the courthouse, without notice or limitation, and only allows a presiding judge in a particular case to decide whether a "courthouse facility dog team" will be permitted into the courtroom for a particular event.

The problems with this bill are numerous:

- The term "vulnerable witness," the population that this bill is intended to protect, is not defined.
- The bill allows dogs access to all public areas, without requiring that a vulnerable witness be present, nor does the bill require the dog to accompany the vulnerable witness.
- There is no requirement that the dog handler give notice to the court of the dog's future presence in the courthouse.
- The bill does not allow the Judicial Branch the authority to confirm the purpose or need for the dog on a case-by-case basis, as the ADA permits, even for service animals.
- There is no requirement that the dog be harnessed or leashed, as under the ADA.
- There is no requirement that the handler clean up after the dog and there is no provision that allows the Judicial Branch the authority to have the dog removed if it does make a mess, as there is in the ADA.
- The bill requires the courts to admit purported "dogs-in-training" into the courthouses. Under the ADA, service-animals-in-training are not considered service animals and do not have to be admitted.
- LD 888 creates issues for already overburdened judicial marshals.
    - While the bill attempts to provide some assurance about the safety of the dogs by requiring training and certification on the part of dog handlers and dogs, how will the certification be verified? How will the marshals know whether the offered documentation complies with the statute?
    - Since the bill presumes the dogs can enter the facility at any time, for any duration, for any purpose, without notice, the burden falls onto the marshals and court to protect and accommodate people with severe allergies or legitimate fear of dogs who need to conduct their court business.
    - Deviation from the court's current practice will create inconsistencies, challenges, and conflicts for our marshals, and distract them from the essential work they do keeping the courthouse safe and secure.
- The bill improperly names the dog a "courthouse facility dog," when the Maine Judicial Branch does not and will not own, handle, or control these dogs and this bill even removes the court's authority to deny the dog for any reason. This bill will cause additional confusion with the public who may expect access to a "Courthouse Facility Dog" when they appear at court. Will this dog be available to criminal defendants? To civil litigants, also in distress? They too request accommodations in court because of their asserted panic disorders, anxiety disorders, PTSD, and other disabilities.
- For Maine citizens fearful of dogs, including new Mainers who may come from countries where dogs are often feral and dangerous or judicial systems corrupt, the stress they

experience in the courts may increase seeing a "Courthouse Facility Dog" handled by prosecutors.

- Our courthouses must be neutral and safe spaces for every member of the public, in order for the Maine state courts to maintain public trust and confidence, which is increasingly fragile.

The true effect of this bill is that it restricts the Judicial Branch's authority to protect its public spaces and the people in it. The decision to allow or disallow "Courthouse Facility Dogs" into the Maine state courts falls squarely in the province of the Judicial Branch, and this bill violates the separation of powers. Policies regarding the use and accessibility of the Maine state courts should be drafted and implemented by the Judicial Branch.

We urge you to vote ought-not-to-pass on LD 888. Thank you for your consideration.

State of Maine Judicial Branch
Guide to the Use of Service Animals

A service animal is defined by state and federal law as a dog that has been individually trained to do work or perform tasks for people with disabilities. Service animals perform a variety of tasks, such as guiding a person who is blind, alerting a person who is deaf, pulling a wheelchair, or reminding a person to take prescribed medications.

The Judicial Branch welcomes service animals in all areas of our courts and facilities where the public is allowed to go. Pets and other non-service animals will not be permitted in our facilities. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals. The work or task a service animal has been trained to provide must be directly related to the person's disability. To determine whether your dog is a service animal, Judicial Branch staff may ask you:

- *Is the dog a service animal required because of a disability?*
- *What work or task has the dog been trained to perform?*

Judicial Branch staff will not request proof of your disability, or require special documentation about the status of your service animal.

Care of Your Service Animal

You are responsible for the care and supervision of your service animal while visiting Judicial Branch facilities. Under the Americans with Disabilities Act (ADA), service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work, or a person's disability prevents using these devices. Judicial Branch staff will ask you to remove the service animal from our facility when:

- Your dog is out of control and you do not take effective action to control the animal; or
- Your dog is not housebroken.

The specific needs of service animals and their handlers may vary, and the Judicial Branch will provide reasonable accommodations whenever possible. Please ask our staff which areas may be available for you to tend to your service animal, and let them know of any additional needs. If you have questions about this policy, or feel that you have not been treated fairly, please contact:

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