

STATE OF MAINE
SUPREME JUDICIAL COURT



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**Judicial Branch testimony against LD 1810,
An Act to Formalize a Process for Reviewing the Conduct of Judges and Justices**

Senator Carney, Representative Kuhn, members of the Joint Standing Committee on Judiciary, I am Chief Justice Valerie Stanfill of the Maine Supreme Judicial Court. On behalf of the Judicial Branch, I submit the following testimony in opposition to LD 1810, An Act to Formalize a Process for Reviewing the Conduct of Judges and Justices.

As you know, Article III of the Maine Constitution divides the powers of the state government "into three distinct departments, the legislative, executive and judicial," and no department "shall exercise any of the powers properly belonging to either of the others." Me. Const. art. III. "The limitation in Article III that no person belonging to any one branch of government shall exercise the powers of any other branch of government necessarily requires that a constitutional grant of power to one branch of government effectively forbids the exercise of that power by any other of the three branches of government." *In re Dunleavy*, 2003 ME 124, ¶ 6, 838 A.2d 338, 343.

The Constitution grants the Legislature authority over judges only by means of impeachment and address to the executive. Me. Const., art. VI, § 4. Otherwise, the judicial power vested in the Supreme Judicial Court includes the *exclusive* authority to regulate the conduct of judges of all the courts, including imposing discipline for misconduct. *In re Dunleavy*, 2003 ME 124, ¶¶ 8, 10, 838 A.2d 338; *In re Benoit*, 487 A.2d 1158, 1170 (Me.1985) ("The Supreme Judicial Court, as the only court established by our state constitution, has the inherent power to prescribe the conduct of judges of all the courts, and to discipline judges for their acts that violate the Code of Judicial Conduct."); *In re Ross*, 428 A.2d 858, 868 (Me.1981) ("[I]t is incumbent upon the Supreme Judicial Court to exercise that part of the judicial power involved in prescribing the conduct of judges and imposing discipline upon them for misconduct."). *See generally Dist. Court for Dist. IX v. Williams*, 268 A.2d 812, 814 (Me.1970) ("The rule is well settled that under our form of government the constitution confers on the judicial department all the authority necessary to exercise its powers as a co-ordinate branch of the government. It is only in such a manner that the independence of the judiciary can be preserved. The courts cannot be hampered or limited in the discharge of their functions by either of the other 2 branches of government.") (quotations and citations omitted).

Enactment of this bill would violate the Legislature's constitutional authority by attempting to infringe upon the exclusive judicial authority.

In 2004, the New Hampshire Supreme Court addressed a similar statute creating a Judicial Conduct Commission. *In re Petition of Judicial Conduct Committee*, 855 A.2d 535 (NH 2004). The court concluded that the statute violated the New Hampshire constitution's separation of powers clause and thus the statute was unconstitutional. *Id.* The court stated that "precedent makes clear that the authority to discipline judges is an essential, and indeed, exclusive, judicial function." *Id.* at 538.

In addition to infringing on the constitutional authority of the Judicial Branch, LD 1810 presents a serious practical problem. The Judicial Conduct Commission that the LD proposes to create would necessarily compete with the existing Committee on Judicial Conduct, established decades ago by the Maine Supreme Judicial Court in recognition of the duty "to discipline judges where warranted" which "is essential for the efficient provision of even-handed justice for the people of Maine." *In re Blaisdell*, 2024 ME 71, ¶ 14, 322 A.3d 1241. Although LD 1810 states that it shall not be construed to abrogate or limit the authority of the Supreme Judicial Court, it would inevitably do both if enacted.

In sum, I urge that the Judiciary Committee vote Ought Not To Pass on this bill.