



# Administrative Office of the Courts

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## **Judicial Branch testimony neither for nor against LD 1766, An Act to Incorporate Probate Judges into the Maine Judicial Branch:**

Senator Carney, Representative Kuhn, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide some brief testimony neither for nor against LD 1766.

In December of 2021, the Commission to Create a Plan to Incorporate the Probate Courts into the Judicial Branch did just that by issuing a comprehensive report. The Commission elicited input and testimony from many stakeholders; and reviewed as much data as could be gleaned from existing sources in both the county Probate Courts and the Judicial Branch. In the end, a large majority of the Commission voted in favor of incorporating the Probate Courts into the Judicial Branch. This merger is permissible under the Maine Constitution due to an amendment that would “become effective at such time as the Legislature by proper enactment shall establish a different Probate Court system with full-time judges.” This amendment was approved by voters in 1967.

Just a few weeks ago, you held an informational session regarding this bill. State Court Administrator Amy Quinlan appeared before the Committee, setting forth the position of the Judicial Branch. Leadership of the Judicial Branch supports including Probate Court judges under its purview for all the reasons articulated over the years, the most significant of which is the appearance of impropriety when individuals sitting as judges are permitted to practice law in the communities in which they serve. As you know, this is no small undertaking.

State Court Administrator Quinlan mentioned three prerequisites to initiating the merger described in LD 1766: (1) postponement of the date of implementation until January 2028, with the first Probate judges coming on board in January 2029; (2) the hiring of a Project Manager and possibly others well in advance of that date to conduct necessary planning and analysis; and (3) ongoing fiscal support for the transfer of the judicial positions and the addition of support staff in future biennial budget cycles.

The sponsor's proposed amendment that was circulated recently includes postponement of the implementation dates as well as the new Project Manager position in FY '27. Upon further review, the Judicial Branch will also need a position to assist the Project Manager, coming on board about six months thereafter. This position, a Process Specialist, was included in our previous fiscal analysis and is thus not an additional position, but one that will need to be hired earlier than anticipated, prior to the implementation date of January 1, 2029. All other positions would be added in upcoming biennial budgets.

With respect to the position identified in LD 1766 as the Chief Judge of the Probate Court, this position would not be appointed until January of 2029. However, there is language in the bill that contemplates having the Chief Judge assist in the planning and implementation of the merger of the two court systems. For example, the Chief Judge would need to examine the status of dockets and caseloads to ensure a successful transition and avoid unnecessary delay. *See Part C, Section C-1.* The Chief Judge will also need to assign judges; be involved in the assessment of courtroom facilities; and oversee the transfer and development of a guardian ad litem roster. *See Part C, Sections C-14, C-15, C-17.* Some of this planning work will need to be accomplished prior to the date the Chief Judge comes on board under the current bill.

The Judicial Branch finance team is working to update the fiscal analysis that was done in conjunction with the bill that was considered two sessions ago. This fiscal note will extend out several years and include positions and costs that will need to be appropriated by future Legislatures. We will have this document ready for the work session.

That said, because this initiative is unprecedented, there will be costs that are unknown at this time, especially with respect to facilities. Physical space, technology, and security requirements will have to be carefully reviewed to create consistency among counties and court locations.

Given the size and scope of the task of incorporating the Probate judges into the Judicial Branch, the Judicial Branch must be thorough and cautious in its development of a multi-step organizational plan. The transition must be smooth; we have to get it right. The rights of Maine citizens are at stake.

Representatives of the Judicial Branch are happy to continue to work with you and provide information that will assist you in consideration of this important legislation.

Thank you for your time.