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Judicial Branch testimony neither for nor against LD 375, An Act to Create Greater Accountability in the Office of County Sheriff:

Senator Baldacci, Representative Matlack, members of the Joint Standing Committee on State and Local Government, my name is Julie Finn and I represent the Judicial Branch. I am here today to provide information regarding LD 375.

The Judicial Branch does not take a position on the stated goals of this legislation: “to create greater accountability in the office of the county sheriff.” This is a policy decision for the Legislature and this Committee to decide. We do, however, have some comments about the process contained in the bill.

The Maine Constitution outlines the procedure by which a county sheriff may be removed from office: “Whenever the Governor upon complaint, due notice and hearing shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon the sheriff by law, the Governor may remove such sheriff from office and appoint another sheriff to serve for the remainder of the term for which such removed sheriff was elected.” Article IX, Section 10, Constitution of the State of Maine.

The bill purports to change the Constitution by removing the authority of the Governor to receive complaints and granting that authority to the Superior Court. The bill, however, does not allow or require the Superior Court to make a finding on the merits of the matter, but instead the court is supposed to forwards the case back to the Governor. As drafted, it is unclear what role the Superior Court would have in this type of proceeding, and the need for the court to be involved is not clear, given the ability of the executive branch to conduct administrative hearings and the unambiguous constitutional language.

We would be happy to work with Senator Keim, the Maine Sheriffs Association, and other proponents of this bill, in addition to the Attorney General’s office, to discuss any impediments the proponents see in the current process and possible ways to move forward.

Thank you for your time. I would be happy to answer any questions.