

# M.C.C.A.

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## LD 375, An Act To Create Greater Accountability in the Office of County Sheriff

March 8, 2021

Chair Carney, Chair Harnett, and members of the Joint Standing Committee on Judiciary, my name is Stephen Gorden and in addition to serving as chair of the board of commissioners for Cumberland County, I am writing today in my role as board president of the Maine County Commissioners Association. We appreciate the opportunity to provide testimony to the Committee in support of LD 375.

**About MCCA.** Briefly, the Maine County Commissioners Association was founded in 1890 to assist Maine's county government in providing vital services to Maine citizens in a responsive, efficient, and credible manner. The Association is based in Augusta and currently represents 15 of Maine's 16 counties and is governed by a board with representation from each participating county.

**Our position on LD 375.** As we understand it, the goal of this legislation is to further refine the statutory process for removal of a sheriff, which is partly defined under the Maine Constitution. We agree that refinement of the process makes sense.

Under the Maine Constitution, the Governor has the sole power to remove a sheriff from office. Article IX Section 10 of the Maine Constitution states, "When 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..." LD 375 clearly retains this clear constitutional role of the Governor, which is obviously essential.

In addition to the constitutional role of the Governor, Maine statute accords county commissioners the ability to file a complaint with the Governor regarding the performance of the county sheriff. This complaint sets in motion the Governor's authority to conduct a hearing that could result in the Governor deciding to remove the sheriff from office. However, Maine law provides no guidance regarding the manner in which such a complaint is delivered to the Governor nor whether such complaint should be accompanied by evidence. Here is the current provision guiding the complaint process that may be initiated by county commissioners: "Whenever the county commissioners find that the sheriff is not faithfully or efficiently performing any duty imposed by this chapter or that the sheriff is improperly exercising or acting outside the sheriff's authority, the commissioners may file a complaint with the Governor describing in detail the facts of those actions or omissions and requesting the Governor to remove the sheriff from office..." *30-A MRS §441*.

## Testimony of MCCA in support of LD 375

March 8, 2021

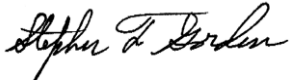
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LD 375 improves upon the current process by adding procedural and evidentiary guidelines. First, LD 375 requires that any complaint submitted to the Governor regarding the performance of a sheriff also be filed in Superior Court for the judicial system to evaluate. Second, the bill provides that the complaint must be accompanied by affidavits and other supporting evidence. Under the process outlined in this legislation, the Superior Court would hear evidence from both sides and, if the evidence warranted it, would then send the complaint on to the Governor. In addition, if the court determines the matter requires more investigation, it can refer the matter to the Attorney General with instructions to report back to the court or to forward the results of the investigation to the Governor.

Ultimately, the final decision regarding removal of a sheriff remains with the Governor under LD 375. However, with LD 375, there is greater likelihood that the Governor will be able to base their decision on supporting evidence as well as the recommendation of an impartial judge. These changes promote transparency and impartiality that should benefit all parties, including county commissioners, sheriffs, and the people of Maine who rely upon our law enforcement system.

**Conclusion.** We hope this information is helpful to the Committee as it considers LD 375, and we hope the Committee will see fit to give this bill an “ought to pass” report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen Gorden".

Stephen Gorden  
President

cc: Commissioner Brian Hobart, Chair, MCCA Legislative Committee  
James I. Cohen, Verrill Dana, LLP, MCCA Legislative Counsel