April 3, 2023

Sen. Anne Carney, Chair
Rep. Matt Moonen, Chair
Joint Standing Committee on the Judiciary
Maine State Legislature
100 State House Station
Augusta, ME 04333

Re: Comments of MSBA regarding LD 1192, Composition of the Judiciary


On behalf of the Board of Governors of the Maine State Bar Association, we are pleased to provide comments in opposition to LD 1192, An Act Regarding the Composition of the Judiciary. We agree with the spirit of the bill which seeks to add more trial judges, but we believe this goal should be accomplished without removing justices from the Maine Law Court as proposed in LD 1192. Additionally, we believe that the Judicial Branch needs more than the two new trial judges proposed in this bill.

About us. The Maine State Bar Association is a statewide trade association chartered in 1891 by the Maine Legislature. The Association currently represents approximately 3,000 attorneys in the State in both public service and private practice. The Association maintains 28 separate sections covering nearly every field of law practiced in Maine, from Administrative Law to Workers’ Compensation Law. Access to justice is a key element of our mission, hence our strong and longstanding interest in issues pertaining to the Judicial Branch.

Discussion. LD 1192 proposes to add a single justice to the Superior Court and add a single judge to the District Court, and to accomplish such additions in a revenue neutral manner, LD 1192 would reduce the number of Associate Justices on the Maine Supreme Judicial Court from six to four. We support the addition of new trial judges, but we oppose the removal of two justices on the Law Court.

With regard to reducing the number of justices on the Law Court, we believe this would be detrimental to justice in Maine. Maine’s current Law Court is comprised of seven (7) members, which allows for members of diverse backgrounds to review cases of great significance to the people of Maine. Having seven (7) members is also important to provide a buffer in the event one or more justices need to recuse themselves from participating in any given matter before the Court either because of prior relationships to attorneys or parties (which is common in a small state like Maine), or because they participated in a matter at the trial court level. If the Court were reduced to five (5) members, decisions would be made by only three justices. If two members were to recuse themselves, a decision could be made by just two members.

Turning to the issue of adding more trial judges, we support the addition of more such judges – but not at the expense of removing Law Court Justices. Moreover, we believe more than two new trial judges are needed. In this regard, we think a better direction than LD 1192 is the proposal in the Governor’s original
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Biennial Budget, which our Association supported. That proposal recommended the addition of four new district court judges to assist in reducing the backlog of dockets that were brought to the forefront during the COVID-19 pandemic. These additional judges will help our courts work through the current backlog of dockets and ensure that the doors to Maine courts remain open to all Mainers on a timely basis.

**Conclusion.** Thank you for the opportunity to provide these comments on LD 1192. If you have questions or need additional information, please do not hesitate to let us know.

Sincerely,

Stacy O. Stitham
President, Board of Governors

cc: Angela Armstrong, Executive Director
    Rachel Okun, Chair, MSBA Legislative Committee
    James I. Cohen, Verrill Dana, LLP
    Clara McConnell, Maine Street Solutions