

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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Legislative Document

No. 1810

H.P. 1211

House of Representatives, April 29, 2025

### **An Act to Formalize a Process for Reviewing the Conduct of Judges and Justices**

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Received by the Clerk of the House on April 25, 2025. Referred to the Committee on  
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative LEE of Auburn.  
Cosponsored by Senator BAILEY of York and  
Representatives: ARATA of New Gloucester, BOYER of Poland, CARUSO of Caratunk,  
FAULKINGHAM of Winter Harbor, HASENFUS of Readfield, SATO of Gorham,  
SINCLAIR of Bath, Senator: BENNETT of Oxford.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 4 MRSA §9-B**, as amended by PL 1999, c. 547, Pt. B, §3 and affected by  
3 §80, is repealed.

4 **Sec. 2. 4 MRSA c. 1, sub-c. 3** is enacted to read:

5 **SUBCHAPTER 3**

6 **COMMISSION ON JUDICIAL CONDUCT**

7 **§71. Definitions**

8 As used in this subchapter, unless the context otherwise indicates, the following terms  
9 have the following meanings.

10 **1. Commission.** "Commission" means the Commission on Judicial Conduct  
11 established by Title 5, section 12004-G, subsection 23-B and described in section 72.

12 **2. Grounds for discipline.** "Grounds for discipline" has the same meaning as  
13 described in section 73, subsection 5.

14 **3. Independent source.** "Independent source" means a person other than a member  
15 of the commission, commission staff or the judge.

16 **4. Judge.** "Judge" or "the judge" means the active or active retired Probate Court  
17 Judge, District Court Judge, Superior Court Justice or Justice of the Supreme Judicial Court  
18 who is the subject of allegations in a proceeding initiated under section 75, subsection 1 or  
19 section 77, subsection 1.

20 **§72. Commission on Judicial Conduct**

21 **1. Membership.** The Commission on Judicial Conduct, established by Title 5, section  
22 12004-G, subsection 23-B, consists of 9 members appointed as follows:

23 A. An active Superior Court Justice, appointed by the Chief Justice of the Supreme  
24 Judicial Court;

25 B. An active District Court Judge, appointed by the Chief Justice of the Supreme  
26 Judicial Court;

27 C. An active Probate Court Judge, appointed by the Chief Justice of the Supreme  
28 Judicial Court;

29 D. Three members who are attorneys licensed to practice law in this State and members  
30 in good standing of the bar of this State, appointed by the Chief Justice of the Supreme  
31 Judicial Court; and

32 E. Three members of the public, who may not be members of the bar of this State,  
33 appointed by the Governor.

34 **2. Alternate members.** The appointing authority under subsection 1, paragraphs A  
35 to E shall appoint one alternative member in that membership category, who serves on the  
36 commission in the event that a commission member from the same membership category

1 is, pursuant to the rules adopted by the commission, disqualified from participating in a  
2 particular proceeding before the commission.

3 **3. Terms.** Members are appointed for 6-year terms. A member may not serve more  
4 than one term in office consecutively, except that a member appointed to fill a vacancy  
5 under subsection 4 may thereafter be reappointed to serve a single term after the expiration  
6 of the term for which the member filled the vacancy.

7 **4. Vacancies.** In the event of a vacancy during an unexpired term of a member, the  
8 appointing authority may fill the vacancy for the remainder of the term.

9 **5. Chair.** Every 3 years, or sooner if there is a vacancy in the office of chair, the  
10 commission members shall elect one member to serve as chair for at least one 3-year term.

### 11 **§73. Scope of authority**

12 **1. Scope of authority.** The commission's authority over judicial conduct is governed  
13 by this subsection.

14 A. The commission may receive information, investigate, conduct hearings and make  
15 recommendations to the Supreme Judicial Court concerning allegations that a judge  
16 has engaged in actions or omissions that constitute grounds for discipline and  
17 allegations of mental or physical disability affecting the judicial performance of all  
18 Justices of the Supreme Judicial Court, Justices of the Superior Court, Judges of the  
19 District Court and Judges of the Probate Court, including any active retired justice or  
20 judge.

21 B. The commission's authority in paragraph A applies to the conduct of a Justice of  
22 the Supreme Judicial Court, Justice of the Superior Court, Judge of the District Court  
23 or Judge of the Probate Court during the judge's term of office and to the judge's  
24 conduct as an attorney at law before or during the judge's term of office.

25 **2. Other authority unaffected.** This subchapter may not be construed to limit or  
26 abrogate the inherent authority of the Supreme Judicial Court to supervise and discipline  
27 judges; the authority of the Legislature to remove a judge by impeachment; the authority  
28 of the Governor to remove a judge upon the address of both branches of the Legislature; or  
29 any supervisory authority provided by law or court rule of the Chief Justice of the Superior  
30 Court or the Chief Judge of the District Court.

31 **3. Precedent.** In exercising its authority under this subchapter, the commission shall  
32 give substantial weight to any relevant decisions of the Supreme Judicial Court or a  
33 grievance panel of the Board of Overseers of the Bar.

34 **4. Limitations period.** The commission may not consider complaints arising out of  
35 acts or omissions occurring more than one year prior to the date commission proceedings  
36 are initiated under section 75, subsection 1 or section 77, subsection 1 unless:

37 A. The complaint alleges a pattern of recurring conduct, the most recent occurrence of  
38 which occurred within the one-year period described in this subsection; or

39 B. The commission determines that good cause supports consideration of additional  
40 conduct predating the one-year period described in this subsection.

41 **5. Grounds for discipline.** In the absence of fraud, corrupt motive, bad faith or a clear  
42 indication that a judge's conduct violates the Maine Code of Judicial Conduct, the

1 commission may not take action against a judge based on the judge's findings of fact,  
2 conclusions of law or application of the law as understood by the judge. The commission  
3 may take action against a judge based on the judge's:

4 A. Conviction of murder or a Class A, Class B or Class C crime;

5 B. Willful misconduct in office;

6 C. Willful misconduct that, although not related to judicial duties, brings the judicial  
7 office into disrepute;

8 D. Conduct prejudicial to the administration of justice or conduct unbecoming a  
9 judicial officer, whether conduct in office or conduct outside of judicial duties that  
10 brings the judicial office into disrepute; or

11 E. Conduct that constitutes a violation of the Maine Code of Judicial Conduct or the  
12 Maine Rules of Professional Conduct.

13 **§74. Commission responsibilities; executive director; immunity**

14 **1. Commission; powers and duties.** In addition to any other powers or duties  
15 specified in this subchapter, the commission has the following powers and duties.

16 A. The commission shall receive complaints and may conduct investigations and  
17 hearings and make recommendations concerning allegations that a judge has engaged  
18 in actions or omissions that constitute grounds for discipline and allegations of mental  
19 or physical disability affecting a judge's judicial performance.

20 B. The commission shall hire an executive director who serves at the pleasure of the  
21 commission. The executive director must be an attorney licensed to practice law in  
22 this State and a member in good standing of the bar of this State but may not be engaged  
23 in the active practice of law while employed as the executive director.

24 C. The commission shall adopt rules to carry out the purposes of this subchapter,  
25 including rules establishing reasonable time limits for all stages of commission  
26 proceedings and standards for extending those time limits. Rules adopted pursuant to  
27 this paragraph are exempt from the requirements of Title 5, chapter 375, subchapter 2-  
28 A but must be approved by the Supreme Judicial Court.

29 **2. Executive director; powers and duties.** In addition to any powers and duties  
30 prescribed by the commission, the executive director of the commission hired pursuant to  
31 subsection 1, paragraph B has the following powers and duties.

32 A. The executive director may receive information, allegations and complaints on  
33 behalf of the commission; make preliminary evaluations of and screen complaints;  
34 conduct investigations; and recommend dispositions to the commission.

35 B. The executive director may, with the approval of the commission, employ special  
36 counsel, private investigators or other experts and clerical staff as necessary to  
37 investigate and process matters before the commission and before the Supreme Judicial  
38 Court. The executive director may not employ persons employed by the Attorney  
39 General or any law enforcement officers for these purposes.

40 C. The executive director shall maintain the commission's records; maintain statistics  
41 concerning the operation of the commission; prepare the commission's budget for

1 approval by the commission and administer its funds; and prepare the annual report of  
2 the commission's activities required by subsection 4 for the commission's approval.

3 **3. Absolute immunity.** Commission members, the executive director, other  
4 commission staff and hearing officers appointed by the Supreme Judicial Court are immune  
5 from suit for all conduct in the course of their official duties under this subchapter.

6 **4. Annual report.** By January 15th of each year, the commission shall submit to the  
7 Chief Justice of the Supreme Judicial Court and the joint standing committee of the  
8 Legislature having jurisdiction over judiciary matters an annual report of the commission's  
9 activities together with any recommendations for improving judicial oversight in the State,  
10 including recommendations for amending court rules and procedures and state laws  
11 governing judicial oversight. The joint standing committee of the Legislature having  
12 jurisdiction over judiciary matters may report out legislation on matters related to the report  
13 to any regular or special session of the Legislature.

14 **§75. Prehearing procedures**

15 **1. Initiation of proceedings.** Commission proceedings may be initiated by oral or  
16 written complaint alleging facts that, if true, would be grounds for discipline. Commission  
17 proceedings may also be initiated by the commission's own motion when the commission  
18 receives reasonable information, including reports in the news media, regarding conduct  
19 that would be grounds for discipline. Upon receipt of such a complaint or approval of the  
20 commission's own motion, the commission shall conduct a prompt inquiry, investigation  
21 and evaluation.

22 **2. Notice.** The commission shall promptly notify the judge of the proceedings and the  
23 subject matter of any complaint received or motion approved under subsection 1 regarding  
24 the judge unless one of the following is true:

25 A. The commission determines that, due to the nature of the allegations supporting the  
26 complaint or motion, delay is necessary to preserve evidence. Notice may be delayed  
27 by the commission under this paragraph until the evidence to be preserved is obtained,  
28 the proceedings are dismissed or a sworn complaint or statement of allegations is  
29 served on the judge pursuant to subsection 7; or

30 B. The commission determines that the identity of the complainant can be readily  
31 determined by the judge and there is a danger of reprisal against the complainant.  
32 Notice may be delayed by the commission under this paragraph until the danger of  
33 reprisal ends, the proceedings are dismissed or a sworn complaint or statement of  
34 allegations is served on the judge pursuant to subsection 7. If the commission  
35 determines that there is an ongoing danger of reprisal, the notice provided under this  
36 subsection and the sworn complaint or statement of allegations served under subsection  
37 7 may be drafted in a manner that conceals the identity of the complainant.

38 **3. Screening.** The commission shall discourage and promptly dismiss complaints that  
39 the commission determines are frivolous, unfounded or not within the commission's  
40 jurisdiction. The commission shall notify the judge and the complainant, if any, of the  
41 dismissal and of the reason for the dismissal.

42 **4. Subpoena power; oaths.** At any stage of the proceeding, the commission may,  
43 within the time limits established by the commission by rule, compel by subpoena the  
44 attendance and testimony of witnesses, including the judge who is the subject of the

1 proceeding, and the inspection or production of documents, books, accounts, written or  
2 electronically recorded statements and other records; administer oaths; and examine any  
3 person under oath.

4 **5. Evaluation; decision to proceed.** After conducting a thorough inquiry,  
5 investigation and evaluation, the executive director shall recommend to the commission  
6 and the commission shall decide by majority vote whether there is adequate reason to  
7 proceed to the preparation of a detailed complaint or statement of allegations.

8 **6. Detailed complaint or statement of allegations.** If a majority of the commission  
9 votes in favor of proceeding to the preparation of a detailed complaint or statement of  
10 allegations, the commission shall request that the complainant file with the commission a  
11 detailed, sworn complaint against the judge. If a sworn complaint cannot be obtained, the  
12 executive director shall prepare a detailed statement of the allegations against the judge.  
13 The detailed complaint or statement of allegations must clearly set forth each alleged action  
14 or omission that constitutes grounds for discipline, the facts alleged in support of the  
15 allegation and each provision of law, the Maine Code of Judicial Conduct or the Maine  
16 Rules of Professional Conduct allegedly violated.

17 **7. Service; answer; personal appearance.** The judge must be promptly served with  
18 a copy of the detailed complaint or statement of allegations. Within 21 days after receiving  
19 the detailed complaint or statement of allegations, the judge shall file a written answer and  
20 any request for personal appearance with the commission.

21 **8. Process prior to formal charges.** The judge may be represented by counsel and,  
22 within the time limits established by the commission by rule before the issuance of formal  
23 charges under subsection 11, may compel by subpoena the attendance and testimony of  
24 witnesses through depositions and the inspection or production of documents, books,  
25 accounts, written or electronically recorded statements and other records. The judge may  
26 file written materials for commission consideration before the issuance of formal charges  
27 under subsection 11. If the judge requests a personal appearance before the commission  
28 before the issuance of formal charges under subsection 11, the judge's statement and any  
29 statement of the judge's counsel must be recorded.

30 **9. Insufficient cause to proceed.** If, at any time prior to the issuance of formal charges  
31 under subsection 11, the commission determines that it lacks sufficient cause to proceed,  
32 the commission must close the investigation, dismiss the complaint or statement of  
33 allegations and notify the judge and any complainant in writing that the commission has  
34 found insufficient cause to proceed. Information obtained by the commission in the course  
35 of an investigation closed prior to the issuance of formal charges under subsection 11 may  
36 not be used in a subsequent commission proceeding unless:

37 A. The subsequent proceeding involves similar allegations against the judge that  
38 suggest a pattern of recurring conduct constituting grounds for discipline;

39 B. The subsequent proceeding involves an allegation that the judge violated the  
40 conditions of an informal adjustment pursuant to section 79 arising out of the closed  
41 investigation; or

42 C. Information about the closed investigation is used solely for purposes of  
43 determining the appropriate sanction to be imposed in the subsequent proceeding.

1        **10. Amendment of complaint or statement of allegations; response.** Upon notice  
2 to the judge, the commission may amend the complaint or statement of allegations prior to  
3 the issuance of formal charges under subsection 11. If the complaint or statement of  
4 allegations is amended, the judge may, within 21 days after receiving the amended  
5 complaint or statement of allegations, amend the judge's written response and, within the  
6 time established by the commission by rule, submit additional written material for the  
7 commission's consideration pursuant to the procedures set forth in subsection 8.

8        **11. Issuance of formal charges.** After the expiration of the time established by the  
9 commission by rule for the judge to submit written materials and personally appear before  
10 the commission under subsection 8 in response to a complaint or statement of allegations  
11 or an amended complaint or statement of allegations, the commission shall decide whether  
12 a preponderance of the credible evidence supports a finding that the judge's conduct  
13 constitutes grounds for discipline. If a majority of all commission members votes in favor  
14 of a finding of sufficient cause, the commission shall issue formal charges stating the  
15 allegations for which sufficient cause is found. A copy of the formal charges must be  
16 served promptly on the judge who may, within 10 days after receiving service, file a written  
17 response with the commission.

18        **12. Appointment of hearing officer.** Immediately after expiration of the 10-day  
19 response period described in subsection 11, the commission shall file a copy of the formal  
20 charges and of any written response by the judge with the Supreme Judicial Court, which  
21 shall promptly appoint a hearing officer.

22        **§76. Hearing; recommendations; attorney's fees**

23        **1. Notice of hearing.** After appointment of a hearing officer under section 75,  
24 subsection 12, the commission shall schedule the hearing and provide notice of the date  
25 and time of the hearing to the judge and all counsel who have entered an appearance in the  
26 proceeding. The hearing must be scheduled without undue delay and in a manner that  
27 affords the judge ample opportunity to prepare for the hearing.

28        **2. Amendment of formal charges or response.** The hearing officer shall permit the  
29 judge to amend the judge's written response to the formal charges within the time limit  
30 provided by the commission by rule. After commencement of the hearing, the formal  
31 charges may be amended by leave of the hearing officer or with the consent of the judge  
32 only if the amendment is technical in nature and the judge is afforded adequate time to  
33 prepare a response or provide evidence in response to the amendment.

34        **3. Discovery; process.** Within the time limits provided by the commission by rule,  
35 the judge and the commission may conduct the same types of discovery available in civil  
36 proceedings in this State. The judge and the commission may, within the time limits  
37 established by the commission by rule, compel by subpoena the attendance and testimony  
38 of witnesses and the inspection or production of documents, books, accounts, written or  
39 electronically recorded statements and other records.

40        **4. Enforcement of process.** The Supreme Judicial Court may enforce subpoenas and  
41 other legal process in commission proceedings under this section and section 75 or may  
42 delegate the power to enforce legal process to another appropriate court.

43        **5. Procedure and evidence.** The hearing officer appointed by the Supreme Judicial  
44 Court under section 75, subsection 12 shall preside at the hearing, which must be open to



1 the public, recorded and transcribed and conducted so as to provide due process to the  
2 judge. All testimony received at the hearing must be under oath. The Maine Rules of  
3 Evidence, including all rules governing privilege that are applicable in civil proceedings  
4 apply, except that, if the judge raises the judge's own physical or mental condition as a  
5 defense to the formal charges, the judge is deemed to have waived any applicable privilege  
6 between the judge as a patient and a health care professional or mental health care  
7 professional.

8 **6. Burden of proof.** The formal charges must be prosecuted by a member of  
9 commission staff, who must be an attorney, or by special counsel retained by the  
10 commission for this purpose. The commission bears the burden of demonstrating the  
11 grounds for discipline by clear and convincing evidence.

12 **7. Proposed findings and recommendations; objections.** At the conclusion of the  
13 hearing, the hearing officer shall submit to the commission and the judge a written  
14 statement of proposed findings and recommendations along with a transcript of the  
15 testimony and all exhibits presented at the hearing. The judge and counsel for the  
16 commission may submit written objections to the hearing officer's findings and  
17 recommendations within 20 days after receiving a copy of those findings and  
18 recommendations. Any objections by the judge or counsel for the commission must be  
19 included in the record submitted to the commission.

20 **8. Commission hearing and decision.** After receipt of the hearing officer's proposed  
21 findings and recommendations, the record and any objections, the commission shall  
22 conduct a public hearing at which the judge and the complainant, if any, are afforded an  
23 opportunity to be heard. Notwithstanding any provision of law to the contrary, the  
24 commission shall conduct its deliberations in executive session. If a majority of the  
25 commission votes in favor of finding that the grounds for discipline have been  
26 demonstrated by clear and convincing evidence and in favor of recommending that a  
27 sanction be imposed, the commission shall issue a written decision containing sufficient  
28 findings and recommendations to inform the judge and the Supreme Judicial Court of the  
29 reasons for reaching its findings and recommendations.

30 **9. Referral to Supreme Judicial Court.** Within 90 days of the date of the  
31 commission hearing, the commission's written decision under subsection 8 must be  
32 transmitted to the Supreme Judicial Court along with the record of the proceedings, which  
33 must include the transcript of and evidence presented at the hearing before the hearing  
34 officer; the hearing officer's findings and proposed recommendations; any objections by  
35 the judge or counsel for the commission to the hearing officer's findings and proposed  
36 recommendations; the transcript of the hearing before the commission; and the findings  
37 and recommendations of any dissenting members of the commission. The commission  
38 may extend the 90-day period for good cause.

39 **10. Dismissal.** If a majority of the members of the commission vote in favor of finding  
40 that the grounds for discipline have not been demonstrated by clear and convincing  
41 evidence or vote in favor of not recommending the imposition of a sanction, the formal  
42 charges must be dismissed and the judge and the complainant, if any, must be notified of  
43 the dismissal by the commission.

44 **11. Informal adjustment.** This section may not be construed to prohibit the  
45 commission from disposing of the matter by informal adjustment pursuant to section 79 at

any time prior to submission of the matter to the Supreme Judicial Court under subsection 9.

**12. Expenses.** The following provisions govern expenses in proceedings under this subchapter.

A. Witnesses are entitled to the same remuneration for fees and expenses as witnesses in civil actions in state court. The party calling the witnesses is responsible for remuneration of the witness unless:

(1) The mental or physical ability of the judge is in issue, in which case the commission is responsible for paying all witnesses, including witnesses called by the judge, whose testimony relates to the judge's mental or physical ability; or

(2) The Supreme Judicial Court determines that the imposition of expert witness fees would cause a financial hardship or injustice on the judge, in which case the commission is responsible for paying those fees.

B. The judge is entitled to receive, without cost, a transcript of all proceedings under this subchapter.

C. Except as provided in this paragraph, the judge is responsible for payment of the judge's attorney's fees. With the approval of the Supreme Judicial Court, the judge is entitled to an award of the judge's reasonable attorney's fees by the State if the matter is dismissed by the commission at any stage after the filing of a detailed complaint or statement of allegations; the Supreme Judicial Court disagrees with a recommendation by the commission to impose discipline; or the Supreme Judicial Court determines that justice would be served by reimbursement of the judge's reasonable attorney's fees.

## **§77. Physical or mental disability affecting judicial performance**

**1. Initiation of proceedings.** Commission proceedings may be initiated by oral or written complaint containing allegations of mental or physical disability affecting the judge's judicial performance. Commission proceedings may also be initiated by the commission's own motion when the commission receives reasonable information, including reports in the news media, that may be grounds for concluding that the judge has a mental or physical disability affecting the judge's judicial performance. Upon receipt of such a complaint or approval of the commission's own motion, the commission shall conduct a prompt inquiry, investigation and evaluation.

**2. Provisions of subchapter applicable.** The provisions of section 72, subsection 4 and sections 75, 76, 79 and 80 apply, as far as possible, to proceedings involving allegations of a mental or physical disability affecting a judge's judicial performance, except as provided in this subsection.

A. If the judge denies an allegation of a mental or physical disability affecting the judge's judicial performance:

(1) The judge is deemed to have waived any applicable privilege between the judge as a patient and a health care professional or mental health care professional;

(2) The judge is deemed to have consented to a physical or mental examination by a qualified health care professional designated by the commission. Copies of any report prepared by the designated health care professional must be provided to both the judge and the commission; and

1           (3) The commission shall require the judge to produce all relevant medical records.

2           B. The commission shall reimburse the judge for the reasonable expenses of any  
3           witnesses called by the judge whose testimony relates to the judge's alleged mental or  
4           physical disability.

5           C. If the judge is not represented by counsel, the commission shall appoint an attorney  
6           to represent the judge at public expense.

7           **§78. Proceedings involving Supreme Judicial Court Justice**

8           If a majority of the commission votes in favor of imposing discipline and submits a  
9           matter to the Supreme Judicial Court under section 76, subsection 9 and the matter involves  
10          the conduct of or the physical or mental disability of an Associate Justice of the Supreme  
11          Judicial Court, the Associate Justices of the Supreme Judicial Court may not participate in  
12          the resolution of the proceeding. The Chief Justice of the Supreme Judicial Court shall  
13          identify, from among all Justices of the Superior Court and all Judges of the District Court,  
14          the 6 judges or justices with the most judicial experience and shall appoint those 6 judges  
15          or justices to serve in place of the associate justices.

16          **§79. Dismissal; informal adjustment; recommended sanction**

17          **1. Dismissal.** The commission may dismiss a proceeding under section 75, 76 or 77  
18          as unjustified or unfounded at any time prior to submission of the matter to the Supreme  
19          Judicial Court under section 76, subsection 9.

20          **2. Informal adjustment.** At any time prior to submission of the matter to the Supreme  
21          Judicial Court under section 76, subsection 9, the commission may, with the agreement of  
22          the judge, terminate the matter and either accept the judge's voluntary retirement or impose  
23          one or more of the following types of discipline on a judge:

24               A. Issuing a private reprimand;

25               B. Admonishing the judge that the judge's conduct is or may be grounds for discipline;  
26               or

27               C. Imposing conditions on the judge's future conduct.

28          **3. Recommended sanction.** The hearing officer may propose and a majority of the  
29          commission may recommend that the Supreme Judicial Court impose one or more of the  
30          following types of discipline on a judge:

31               A. Removal;

32               B. Retirement;

33               C. Imposition of attorney discipline under the Maine Rules of Professional Conduct;

34               D. Imposition of limitations or conditions on the performance of judicial duties;

35               E. Public or private reprimand or censure;

36               F. Imposition of a fine;

37               G. Assessment of costs and expenses; or

38               H. Imposition of any other sanction that is reasonable and lawful.

39          **§80. Confidentiality**

1        **1. Confidentiality prior to filing formal charges.** Notwithstanding any provision of  
2 law to the contrary and except as provided in subsection 2, all commission proceedings are  
3 confidential until formal charges have been filed with the Supreme Judicial Court under  
4 section 75, subsection 12. The commission shall establish by rule procedures for ensuring  
5 that commission members and staff maintain the confidentiality required by this  
6 subsection.

7        **2. Exceptions.** Notwithstanding the provisions of subsection 1, commission  
8 proceedings are not confidential in the following circumstances.

9            A. Information obtained by the commission in the course of an investigation closed  
10 prior to the issuance of formal charges may be used in a subsequent commission  
11 proceeding pursuant to section 75, subsection 9.

12           B. If the judge waives the confidentiality of the proceeding or the subject matter  
13 becomes public through an independent source, the commission may confirm the  
14 pendency of the proceeding, clarify procedural aspects of the proceeding, explain the  
15 judge's right to a fair hearing and indicate whether the judge has denied the allegations  
16 in the proceeding.

17           C. If the proceeding was initiated as a result either of notoriety or because the conduct  
18 at issue is a matter of public record and the proceeding is subsequently terminated  
19 before the issuance of formal charges, the commission may release information  
20 concerning its decision to terminate the proceeding.

21           D. In accordance with procedures established by the commission by rule, which must  
22 require reasonable notice to the judge unless the judge has signed a written waiver of  
23 the right to such notice, the commission may disclose information about proceedings:

24                (1) To any federal or state agency or body established for screening candidates for  
25 judicial appointment if that agency or body seeks information or written materials  
26 from the commission in connection with the selection or appointment of the judge  
27 for a judicial position; or

28                (2) To the Chief Justice of the Supreme Judicial Court, the Chief Justice of the  
29 Superior Court or the Chief Judge of the District Court if the Chief Justice or Chief  
30 Judge seeks information or written materials from the commission in connection  
31 with the assignment of the judge for duties as an Active Retired Justice or Active  
32 Retired Judge.

33        **3. Confidentiality after filing formal charges.** Notwithstanding any provision of  
34 law to the contrary, commission proceedings may remain confidential after formal charges  
35 have been filed with the Supreme Judicial Court only if the judge, a majority of the  
36 commission and the complainant, if any, all agree in writing based on the nature of the  
37 formal charges or as necessary to protect public safety.

38        **§81. Advisory committee**

39           The Chief Justice of the Supreme Judicial Court may establish an advisory committee  
40 with the authority, in response to the request of a judge or on the advisory committee's own  
41 motion, to issue advisory opinions interpreting the Maine Code of Judicial Conduct.

42        **Sec. 3. 5 MRSA §12004-B, sub-§8,** as enacted by PL 1993, c. 381, §2, is repealed.

43        **Sec. 4. 5 MRSA §12004-G, sub-§23-B** is enacted to read:

1                    **23-B.**

2                    Judiciary                    Commission on Judicial Conduct                    Expenses only                    4 MRSA §72

3                    **Sec. 5. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 4,  
4                    section 72, subsection 3, an appointing authority for the original appointments of members  
5                    of the Commission on Judicial Conduct shall designate 1/3 of the authority's appointments  
6                    for 6-year terms, 1/3 of the authority's appointments for 4-year terms and 1/3 of the  
7                    authority's appointments for 2-year terms. An initial term of 2 or 4 years may not be  
8                    considered a full term for purposes of limiting the number of terms for which a member  
9                    may serve.

10                    **SUMMARY**

11                    This bill establishes the Commission on Judicial Conduct, comprised of 3 judicial  
12                    officers appointed by the Chief Justice of the Supreme Judicial Court, one each from the  
13                    Superior Court, the District Court and the Probate Court; 3 licensed attorneys appointed by  
14                    the Chief Justice; and 3 members of the public appointed by the Governor. The bill charges  
15                    the commission with receiving and investigating complaints, conducting hearings and  
16                    making findings and recommendations to the Supreme Judicial Court concerning  
17                    allegations that an Active or Active Retired Judge or Justice of the Supreme Judicial Court,  
18                    the Superior Court, the District Court or a county Probate Court has either engaged in  
19                    actions or omissions that constitute grounds for discipline or has a mental or physical  
20                    disability affecting the judge's or justice's judicial performance.

21                    The bill also directs the commission to hire an executive director to assist the  
22                    commission in performing its duties, including by screening complaints and recommending  
23                    dispositions to the commission; employing counsel, private investigators, hearing officers  
24                    and other staff; administering the commission's budget; and preparing an annual report to  
25                    the Chief Justice of the Supreme Judicial Court and the joint standing committee of the  
26                    Legislature with jurisdiction over judiciary matters.

27                    Finally, the bill authorizes the Supreme Judicial Court to establish an advisory  
28                    committee with the authority to issue advisory opinions interpreting the Maine Code of  
29                    Judicial Conduct.