

# MAINE STATE LEGISLATURE

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OFFICE OF  
THE GOVERNOR

NO. 6 FY 23/24  
DATE Feb. 9, 2024

**An Order Establishing a Process to Hear a Complaint on the Removal of a Sheriff  
Pursuant to Art. IX, Section 10, of the Maine Constitution**

**WHEREAS**, Me. Const. Art. IX, § 10 confers upon the Governor the authority to consider the removal of an elected sheriff “upon complaint, due notice and hearing” if the sheriff is found to be “not faithfully or efficiently performing any duty imposed upon the sheriff by law”; and

**WHEREAS**, 30-A M.R.S. § 441 authorizes county commissioners to submit complaints to the Governor to request the removal of a sheriff from office; and

**WHEREAS**, the exercise of this authority should be informed by proper procedures and protocols; and

**WHEREAS**, the exercise of this authority should be further informed by the advice and counsel of a person learned in matters of the law, public administration, and criminal justice;

**NOW THEREFORE**, I, Janet T. Mills, Governor of the State of Maine, pursuant to authority conferred by Me. Const. Art. V, Pt. 1, §§ 1 & 12, do hereby Order the following.

**I. Purpose**

The purpose of this Order is to establish a process for hearing a complaint seeking removal of an elected sheriff submitted to the Governor under Me. Const. Art. IX, § 10, and 30-A M.R.S. § 441, and to appoint an advisory authority, consisting of a hearing officer, to hear the complaint and make a recommendation to the Governor.

**II. Hearing Officer**

The Honorable Donald G. Alexander is hereby appointed to serve as the Hearing Officer. The Hearing Officer serves at the Governor’s pleasure.

**III. Process**

The Hearing Officer shall hold a hearing upon complaint to the Governor by county commissioners pursuant to 30-A M.R.S. § 441 seeking removal of a sheriff.

**A. Sufficiency of Complaint; Opportunity for Answer**

The written complaint must adequately advise the sheriff and the Governor of the factual basis for the allegations that the sheriff is “not faithfully or efficiently performing any duty imposed upon the sheriff by law.” The sheriff must be provided an opportunity to submit a written answer to the complaint. All written materials must be served on the opposing party at the time of submission to the Hearing Officer.

**B. Hearing**

The Hearing Officer shall confer with the parties regarding the future course of proceedings, and thereafter issue a procedural order governing the hearing process, including pre- and post-hearing written submissions. The hearing process shall provide appropriate protection to the rights and interests of the parties for a proceeding that may result in the removal of a popularly-elected sheriff.

**C. Recommendation and Decision**

The Hearing Officer shall provide a written report to the Governor and make any recommendation he deems appropriate based on the evidence presented. The Hearing Officer’s recommendation is purely advisory, and the Governor retains final decision-making authority, consistent with Me. Const. Art. IX, § 10.

**IV. Other Reports**

If the Hearing Officer determines that the evidence presented constitutes probable cause of criminal activity, he shall make such reports as he deems appropriate to law enforcement for further investigation. If the Hearing Officer determines that the evidence presented raises substantial questions about the professional conduct of any member of law enforcement, he shall make such reports as he deems appropriate to the Maine Criminal Justice Academy.

**V. Access and Confidentiality**

- A. **Records:** All written materials required for the hearing on removal received by the Governor and the Hearing Officer at the hearing are subject to 1 M.R.S. § 402(3) and any other applicable provision of Maine law.
- B. **Hearing:** The hearing required by the Constitution is a public proceeding subject to 1 M.R.S. § 402(2), though the proceeding, in part, may be conducted subject to the limitations stated in 1 M.R.S. § 405(6)(A).
- C. **Other:** All other records, proceedings and deliberations of the hearing officer are confidential pursuant to 1 M.R.S. §§ 402(2)(F), (3)(J), 403(6), 405(6)(A), and any other applicable provision of Maine law. The Hearing Officer’s written report to the Governor will become subject to 1 M.R.S. § 402(3) upon the announcement of the Governor’s decision.

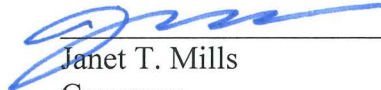
**VI. Agency Support**

Governor's Office staff shall provide counsel, support, and administrative assistance to the Hearing Officer.

**VII. Compensation**

The Hearing Officer shall serve without compensation. The Hearing Officer's administrative costs shall be borne by the Governor's Office.

Date: February 9, 2024

  
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Janet T. Mills  
Governor