

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

---

---

ONE HUNDRED AND TENTH LEGISLATURE

---

---

**Legislative Document**

**No. 1511**

H. P. 1306

House of Representatives, April 1, 1981

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Reeves of Pittston.

---

---

STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

---

**AN ACT to Create a Board of Review of the Judiciary.**

---

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

**Sec. 1.** 4 MRSA § 9-B, as amended by PL 1979, c. 490, § 1, is repealed.

**Sec. 2.** 4 MRSA c. 8 is enacted to read:

**CHAPTER 8**

**BOARD OF REVIEW OF THE JUDICIARY**

**§ 421. Establishment and composition**

There is established a Board of Review of the Judiciary consisting of 7 members to receive and investigate complaints concerning the performance of misconduct of any Justice of the Supreme Judicial Court or Superior Court, or of any Judge of the District Court, Probate Court or Administrative Court. The board may also investigate whether any judge on the Supreme Judicial Court, Superior Court, Probate Court or Administrative Court is suffering from a physical or mental disability which materially affects his ability to perform his duties as a judge.

1. **Judicial membership.** Two members of the board shall be either active or Active Retired Justices of the Supreme Judicial Court or Superior Court, active or Active Retired Judges of the District Court or active Judges of Probate. At no time may the 2 judiciary members be members of the same court. The 2 judiciary

members shall be appointed by the Governor subject to confirmation by the Joint Standing Committee on Judiciary.

2. **Attorney membership.** Two members of the board shall be attorneys-at-law admitted to practice in the State. The 2 attorney members of the board shall be appointed by the Governor, subject to confirmation by the Joint Standing Committee on Judiciary.

3. **Citizen membership.** Three members of the board shall be representatives of the general public of the State and shall not be attorneys or members of the judiciary. The 3 citizen members of the board shall be appointed by the Governor, subject to confirmation by the Joint Standing Committee on the Judiciary.

4. **Chairman; quorum.** The Governor shall appoint a chairman of the board and, from time to time, the board may designate from its members a vice-chairman and secretary. A quorum of the board shall consist of 5 members and no action may be taken by the board except by vote of a majority of the full board.

5. **Terms.** The term of each member of the board shall be for 6 years, except that initial appointments shall be as follows in order to achieve staggered terms.

A. One judiciary member shall be appointed to a 6-year term and the other judiciary member shall be appointed to a 4-year term.

B. One attorney member shall be appointed to a 4-year term and one attorney member shall be appointed to a 2-year term.

C. One public member shall be appointed to a 6-year term, the 2nd public member shall be appointed to a 4-year term and the 3rd public member shall be appointed to a 2-year term.

D. No member may serve more than one term in office, provided that the members appointed to serve 2 years or less of an initial or unexpired term shall not be considered to have served the equivalent of a term for purposes of this subsection.

#### § 422. Compensation, expenses and budget

The board may establish such offices, employ an executive secretary and counsel and make arrangements for such secretarial and other assistance as the board reasonably requires. The board shall have a budget approved by the Legislature.

Members of the board shall receive no salary or other compensation, but shall receive their necessary administrative and traveling expenses incurred while actually engaged in the discharge of their official duties.

#### § 423. Complaints

The board shall receive complaints concerning the performance or misconduct of any Justice of the Supreme Judicial Court or Superior Court, or of any Judge of the District Court, Probate Court or Administrative Court. The board shall also

receive and investigate complaints concerning the physical or mental fitness of any judge to continue in office.

Upon receipt of any complaint, the board or its designee shall communicate the complaint to the person complained against and shall provide that person with a copy of any written complaint. The person complained against shall have reasonable opportunity to respond to the complaint. The board shall conduct such further investigation as it deems fit. If the board determines that the complaint is unfounded, the board shall dismiss the matter, notifying any complainant of its actions and of its reasons therefor.

#### § 424. Hearing

The board shall hold a hearing at the request of a member of the board or the person whose conduct is being investigated. At such hearing, the person under investigation shall be entitled to counsel and have the right to cross-examine witnesses. The board shall have subpoena power and every witness shall be sworn. The hearing shall be before the board and shall be recorded. All proceedings before the board shall be conducted in conformity with the Maine Administrative Procedure Act, the Maine Freedom of Information Act and any other Maine law applicable to administrative proceedings. All proceedings before the board shall be open to the public, except as provided in the Maine Administrative Procedure Act or the Maine Freedom of Information Act.

#### § 425. Disposition

If, after completion of the board's investigation and hearing, if any, the board determines that the person under investigation has violated the laws of Maine, the nature of which violation casts into doubt his continued willingness to conform his conduct to the Code of Judicial Conduct as applicable, or that in fact the person has violated the Code of Judicial Conduct as applicable and that the violation is of a serious nature so as to warrant disciplinary action, or that the person under investigation is suffering from a mental and physical disability which materially affects his ability to perform his duties as a judge, the board shall file a report of its findings with the Governor and the Joint Standing Committee on Judiciary, together with a statement of the alleged charges, a recommendation as to action, the transcript of any hearing and any exhibits considered by the board.

#### § 426. Rules

The board may adopt rules for the conduct of its operations under this chapter in accordance with the Maine Administrative Procedure Act.

### STATEMENT OF FACT

This bill repeals Title 4, section 9-B, which empowered the Supreme Judicial Court to establish the Committee on Judicial Responsibility and Disability. This bill replaces the committee with a Board of Review of the Judiciary. The bill is based upon the order of the Supreme Judicial Court of July 5, 1978, establishing the Committee on Judicial Responsibility and Disability and L. D. 1680 of 1977.