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RE: Opposition to HB 38

Dear Judiciary Committee:

On behalf of Pennsylvanians for Modern Courts, a legal nonprofit dedicated to advocating for judicial reforms that promote the rule of law, access to justice, an

inclusive judiciary and the most highly qualified professionals serving in the courts, we are fervently opposed to the Judicial Districting Bill.

PMC was established over thirty years ago as a result of the 1988 report from the Pennsylvania Judicial Reform Commission. Governor Robert Casey commissioned this blue-ribbon panel of civic leaders, public officials, legal professionals, and members of the judiciary. PMC Honorary Board Member, and then a Judge on Pennsylvania's Superior Court, Judge Phyllis W. Beck (above), chaired the committee.

The panel discovered that confidence in the judiciary was appallingly low, in large part due to the system of electing judges and the fundraising that goes along with it. This, combined with several scandals in the late 1980s involving Pennsylvania judges, led our founders to determine that a non-profit, non-partisan organization was needed to fill the vacuum of judicial oversight and be a herald for judicial ethics.

Since its inception, PMC has vigorously advocated for a number of judicial reforms - the merit selection of appellate judges the most noteworthy among them. PMC continues to push for the selection of competent jurists based on merit, rather than through partisan political elections, an effort supported by Pennsylvania's five most recent governors.

Pennsylvania is only one of seven states in this country that elects its appellate court judges in partisan elections joining Alabama, Illinois, Louisiana, New Mexico, North Carolina and Texas. More interesting is the fact that there are only two states in the country that elect their appellate court judges by district, Illinois and Louisiana.

The appellate courts in our state, for the most part, hear appeals from decisions made by the lower courts. Appellate judges interpret the case law, Pennsylvania statutes and Pennsylvania's Constitution on a statewide basis without being influenced by local interests. Their role is to apply the law equally for all Pennsylvanians; they are not advocates for one side or another.

We each currently have the opportunity to elect all the judges (31 total seats) on the appellate benches, and these appellate judges are elected by all citizens of Pennsylvania. This proposed bill would take away our right to elect all the judges on the appellate court and permit each of us to elect possibly only one or two judges for each appellate court depending on where we live. Such a stark change from electing 31 judges to electing 3 will clearly disenfranchise the voters.

The independence of the judiciary is threatened by this bill, and as such, the public's confidence in the court system and judiciary will be harmed. Judges and Justices could be influenced by campaign contributions and appealing to local interests. Each judge might be more concerned with addressing issues of and from their direct constituents than with addressing issues on a statewide basis. When I spoke with one former appellate court judge, their concern with this responsibility to constituency could result in the "trading" of cases and rulings in the time period leading up to voting on their retention.

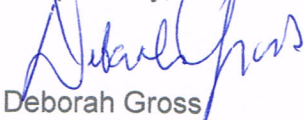
The other dangerous thing about this bill is that it does not set forth the process by which the amendment will be implemented. Are all the current judges going to be let go and replaced? Are those judges who under law are permitted to run for retention election after serving their initial term, not going to be permitted to run for retention simply because of where they live, but others will be permitted? Is this redistricting going to take place first in the Supreme Court, and then after completed in the Superior Court, and then after that's completed in the Commonwealth Court? The bill only says that these decisions shall be made by the General Assembly.

Finally, there are clearly unexpected consequences of this bill. There are currently three judges from Dauphin County on the Commonwealth Court. This would not occur under the current proposal. There is a Commonwealth Court judge from Delaware County, and this might not occur as this county is adjacent to Philadelphia County and could be part of its district. Similarly, there are two Superior Court judges from Beaver County. Again, this would not happen and depending on how the districts are determined, it is quite possible there would never be a judge from Beaver since it is adjacent to Allegheny County. Finally, based on the state's population, this proposal appear to guarantee at least two Supreme Court Judges from Allegheny County and two from Philadelphia County.

Interestingly, one person with whom I spoke, noted that the current system discourages geographical diversity simply because the county name is listed under the candidate on the ballot in the primary. If you are truly interested in achieving more geographical diversity, remove the county name.

PMC would be happy to provide testimony and urges that a constitutional amendment with such great importance be given the opportunity for public hearings as well.

Respectfully,



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