Testimony of Maureen D. Dennis
Superior Court Judge and
President of the Connecticut Judges Association
March 10, 2008

Regarding Proposed Legislation
Bill No. 605
AN ACT CONCERNING JUDICIAL BRANCH OPENNESS

Good afternoon Senator McDonald, Representative Lawlor, Senator Kissel, Representative O'Neill and honorable members of the Judiciary Committee.

My name is Maureen Dennis. I am a judge of the Superior Court in Connecticut and I currently have the pleasure to serve as the president of the Connecticut Judges Association. Our association consists of approximately 243 members, including judges, senior judges and referees.

The matters that I would like to address are contained in Bill No. 605 -AN ACT CONCERNING JUDICIAL BRANCH OPENNESS.

With respect to the provisions applicable to the Judicial Selection Commission, contained in Sections 2 through 4:

We support the provisions which would require state referees to go through the Judicial Selection Commission, specifically including the same presumption of being qualified to seek reappointment, as any other judicial officer.

We are opposed to the provision in Section (k) which would require that the total affirmative and negative votes of the members of the Judicial Selection Commission to be made publicly available, as we feel that would have a chilling effect on the members of the Bar who sit on that commission, and might well discourage them, as well as many lay people, from agreeing to serve on this commission.

With respect to the provisions applicable to the Judicial Review Council, beginning with Section 5:

The Judicial Review Council consists of twelve volunteer members, appointed by the Governor with the approval of the General Assembly. The council has only a part-time attorney. We respectfully request that you defer any action on the provision which would require that the Judicial Review Council issue advisory opinions, until you have had an opportunity to review the results of the work accomplished over the past nine months by the Committee on Judicial Ethics Advisory Opinions. This committee, chaired by Justice Schaller, has developed a detailed proposal on this specific issue. Under this proposal, a committee consisting of judges and a law professor, [who

specializes in legal ethics, but is not engaged in the practice of law], would render advisory opinions with respect to the interpretation of rules of court and statutes related to the ethical and professional conduct of judicial officials. Justice Schaller is available to provide you with more detailed information today, or at any other time that would be convenient to you.

We are strenuously opposed to the provision which would allow the Judicial Review Council to make any public disclosure of the existence of any complaint, prior to a determination of probable cause. Having any earlier disclosure simply based on outside publicity, would permit a disgruntled complainant to purposely publicize a complaint, and thereby trigger public disclosure. This would effectively circumvent any true confidentiality. From my research, no other states provide for such public disclosure, prior to a finding of probable cause.

We are very concerned with the proposed change to make admonishments public. Pursuant to statute, admonishments are issued in cases where the Judicial Review Council has found no violation of the requirements under CGS Section 51-51i, but nonetheless recommends a change in that judge's conduct in the future. Virtually all employees are entitled to a warning, and it should be private, particularly since no underlying violation has been found by the Judicial Review council at the conclusion of its investigation. Pursuant to existing law, whenever an admonishment is issued, the Judicial Review Council is required to notify the Judiciary Committee of the issuance of the admonishment, including its substance, as well as copies of the complaint file. [See C.G.S. Section 51-51*l*(b)(1)] Current law already provides the Judiciary Committee with complete and comprehensive information regarding both the admonishment and the surrounding circumstances.

Each judicial officer who comes before you for reappointment or elevation provides, under oath, details regarding any complaint[s] filed with the Judicial Review Council, including the date, name of the complainant, substance of the complaint, and the final disposition of the matter. Additionally pursuant to existing laws, the Council is required to provide all information regarding any complaints, including the investigation and disposition, to both the Judiciary Committee and the Governor. [See C.G.S. Section 51-51q(a)(1).] And finally, the Judiciary Committee has total and complete access to the contents of all Judicial Review complaint files concerning any judicial officer. [See C.G.S. Section 51-51q(a)(2).] In fact, current law requires that upon written request from a Judiciary Co-Chair, the Judicial Review Council must forward any requested information about any judge, including confidential information, to the Judiciary Committee within 3 business days. [See C.G.S. Section 51-51q(a)(2)(B).]

We recognize that the members of this committee require meaningful information in order to effectively perform their mandated review of judicial officers, which could include more detailed information for the reasons underlying dismissals of Judicial Review complaints. We would welcome the opportunity to work collaboratively with you to achieve this goal.

We are not opposed to the provisions which would make the record of the Judicial Review proceedings public, after a finding of probable cause, so long as the deliberations of the Council remain private.

The wording of Section 8(a) as currently drafted would provide for the imposition of a civil monetary penalty ***in addition*** to other discipline imposed. Since any suspension imposed on a sitting judicial authority, pursuant to statute, would involve a suspension of pay and any benefits, we would respectfully suggest that any civil monetary penalty be an alternative disposition, as opposed to an additional one. This would also be consistent with the newly proposed language in the previous Section 7(a), which provides for any such civil penalty to be an alternative disposition.

And finally, in the newly proposed Section 14, regarding any complaints filed with the Office of the Chief Court Administrator, we would respectfully request that you revise the wording to specify that this provision apply to *signed* complaints, *received in writing.*

Thank you for allowing me the opportunity to address your committee on behalf of the Connecticut Judges Association.