



PHILADELPHIA BAR ASSOCIATION

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Honorable Rob W. Kauffman
Chair, House Judiciary Committee
P.O. Box 202089
Room 312, Main Capitol
Harrisburg, PA 17120-2089

Honorable Tim Briggs
Democratic Chair, House Judiciary Committee
P.O. Box 202149
Room 302, Main Capitol
Harrisburg PA 17120-2149

Dear Chairs Kauffman and Briggs:

As the Chancellor of the Philadelphia Bar Association, I am writing to express this Association's strong opposition to House Bill 38, currently in your Committee. This bill proposes to amend the Pennsylvania Constitution to divide the Commonwealth into a series of districts for the election of one Justice of the Supreme Court of Pennsylvania from each of seven districts, one Judge of the Superior Court from each of fifteen districts and one Judge of the Commonwealth Court from each of nine districts.

The Pennsylvania Constitution has been carefully framed to achieve a balance among the three branches of government. This balance guarantees that no single branch of government becomes dominant and exercises power over either of the other two branches. A strong judiciary, independent of influences and pressures from the executive and legislative branches, is essential to maintaining this balance.

House Bill 38 infringes on the independence of the judiciary. Pennsylvania's appellate courts are statewide by design. Decisions made by these courts impact all Pennsylvanians. Judges are not representatives in the same sense as are legislators or the Executive. Their function is to administer the law, not to advocate the cause of a particular constituency. Appellate court judges must be able to serve all Pennsylvanians. Likewise, as long as appellate judges are elected, all Pennsylvania voters must have an opportunity to choose every member of our appellate courts.

House Bill 38 further interferes with the independence of the judiciary by elevating the importance of the political views, rather than the qualifications, of appellate court judicial candidates and by making sitting appellate court judges beholden to the legislative branch for their positions. The bill proposes that after every census, the General Assembly will be tasked with redrawing the boundaries of 31 judicial districts. This provision gives whichever political party may be in power the opportunity to draw judicial district boundary lines to favor specific political views and their own party. This plan also gives the party in power an opportunity to remove judges whose decisions they do not favor by redrawing district lines

YOUR PARTNER FOR JUSTICE

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in a way designed to ensure defeat at the next election. The risk that gerrymandering could play a major role in determining the makeup of our appellate courts is exacerbated by the fact that any challenge to district lines based on a claim of gerrymandering must ultimately be decided by those same appellate court judges who are subject to these pressures.

House Bill 38 diminishes diversity on our appellate courts. Racial, gender and socioeconomic diversity is vital to a well-functioning court system, one that draws from as broad a pool of talented lawyers as possible, fosters robust deliberation that reflects different life perspectives, and engenders confidence within the communities it serves. The division of the Commonwealth into small districts diminishes the opportunity of voters to choose from an array of diverse candidates drawn from a large and varied pool of individuals from across this great Commonwealth.

Historically, the Philadelphia Bar Association has been a strong proponent of merit selection of appellate court judges and this remains our position today. However, as long as we elect judges in Pennsylvania, this Association will speak out clearly and forcefully when we see a proposal that diminishes the independence and quality of our judiciary.

At a time when Pennsylvanians are looking to heal divisions and find ways to achieve justice more fairly, this bill proposes exactly the opposite. I urge you to vote against House Bill 38.

Respectfully,



Lauren P. McKenna
Chancellor, Philadelphia Bar Association