

Senate Judiciary Committee

Brendan Bunnell 271-4063

HB 1130-FN, relative to judicial performance evaluations.

Hearing Date: April 7, 2026

Time Opened: 2:31 p.m.

Time Closed: 3:37 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Altschiller and Reardon

Members of the Committee Absent: Senator Carson

Bill Analysis: This bill revises the process for the evaluation of judicial officers.

Sponsors:

Rep. Lynn

Rep. Korzen

Who supports the bill: Representative Bob Lynn, Lynn Schollett, Curtis Howland, Pamela Harders, James Gardner, and Daniel Richardson.

Who opposes the bill: David King, Ellen Christo, Susan Carbon, and Jill O'Neill.

Who is neutral on the bill: Lauren Warner.

Summary of the testimony presented:

Representative Bob Lynn introduced the bill. He explained that judicial performance evaluations have been in effect since 2001, and that this bill would significantly enhance that process.

- Explained that the new evaluation system would call for in court observations by an evaluating judge, in addition to the evaluations already required by law.
- Stated that this evaluation process would also now be extended to part-time judges, senior active judges, and judicial referees.
- Explained that the bill would also shorten the follow-up time for reevaluation to 12 months from the current 18.
- Explained that the bill would also provide that the results of an evaluation would be public to a greater degree than they are now. Currently, a public

report is released at the end of each year that identifies that a certain number of judges were identified and the scores they achieved, without identifying the judges. This bill would compel the identification of these judges in future reports.

- Stated that there had been a few amendments added to the bill by the House. The first amendment removed the ability of individuals to leave comments for judges that had been present in the bill after concerns were raised about the potentially biased and inflammatory nature of these comments. The second amendment removed the requirement for analyzing the case processing statistics, as this is primarily the responsibility of the clerks of the courts.
- Explained that some of the latter language regarding analyzing case processing statistics remained in the bill, and that it would need to be removed.
- Explained that this bill had been drafted in consultation with Chief Justice MacDonald.
- Argued that there is a need for accountability in the judiciary, given that they are practically the only individuals in the state system appointed for life.
- Stated that while he had heard some worries that this bill might result in judges being too willing to recuse themselves from cases with difficult litigants or challenging family circumstances, he did not feel this to be a likely result. The representative argued that New Hampshire has a very high caliber judiciary and that it could be a violation of the judicial conduct for a judge to recuse himself without a true basis regardless.
- Senator Gannon asked whether the intention of the bill was to improve accountability given that page 1, line 6 reads “The sole purpose of the JPE program shall be the improvement of the performance of individual judges and of the judiciary as a whole.”
 - Representative Lynn responded that he felt accountability to the public was part of improving that performance. He argued that the understanding that your performance will come under public scrutiny would have a positive effect.
- Senator Gannon asked whether this language on page 1, line 6 ought to be removed.
 - Representative Lynn answered that he felt it encompassed both concepts.
- Senator Gannon expressed concern that the responsibility of judges to evaluate each other might not be seen as sufficient to the public for creating accountability.

- o Representative Lynn answered that the judiciary has been performing these self-evaluations since 2001 and argued that the fact that judges fail evaluations from time to time demonstrates that they are willing to hold each other accountable.
- Senator Reardon asked whether the public evaluations in the bill might risk making judges a target for what somebody might say about them in or outside of a courtroom.
 - o Representative Lynn answered that the issue of security had been expressed in the House, but that the primary threats to judges come from individuals involved in cases that the judge is overseeing.
- Senator Reardon asked whether this would allow for certain deficiencies or issues made public by these evaluations to be used against the judge in other circumstances, presenting a hypothetical where a lawyer might appeal a decision on account of a judge’s public history.
 - o Representative Lynn answered that he did not feel that would be a very persuasive argument.
- Senator Altschiller asked about the removal of the word “programs” for “interventions” on page 2, line 9, and the removal of a judge’s right to confidentiality, asking what the intentions behind these modifications were.
 - o Representative Lynn answered that the intention was to provide room for the behavior of a given judge to be corrected via a specific action, including potential disciplinary actions if necessary.
- Senator Altschiller stated that she had heard concerns that this bill could start or set up an accelerated process for impeachment, and asked if that was a possible result of the bill.
 - o Representative Lynn answered that he supposed it was possible, but that it was in no way the intent of the bill. He reiterated that New Hampshire has a very high-quality judiciary and stated that he found the likelihood of any judges in the state being amendable unlikely.

Lynn Schollett, a representative of the New Hampshire Coalition Against Domestic Violence, spoke in support of the bill. She explained that she had seen the traumatizing harm that ineffective judges can have and argued that the bill recognizes the importance of the judicial system being transparent.

- Argued that the bill would ensure accountability and help to uphold public trust in courtrooms.

- Explained that judicial performance evaluations are well established methods of assessing both potential training and educational needs.
- Explained that 12 other states have put them in their statutes and many other states perform these evaluations via the regulations of their Bar Association.
- Explained that these evaluations are not concerned with case outcomes but with the impartiality of judges, the clarity of their communication, and their temperament. She argued that all of these areas could be addressed with the proper training, mentorship, and appropriate tools.
- Argued that this bill draws on best practices that are highlighted by the Institute for the Advancement of the American Legal System. This bill includes the observations of a neutral party as recommended by their 2025 report.
- Explained that the vast majority of individuals in New Hampshire that appeal before judges do so without having a lawyer present. In domestic violence cases, only 12% of victims ever have an attorney representing them. She stated that, while her organization recognizes that most judges in New Hampshire do an excellent job, they have received concerning reports from victims, prosecutors, private attorneys, and other stakeholders about a small group of judges who do routinely misapply the law and treat victims in a manner which is inconsistent with what is expected for victims.
- Argued that New Hampshire deserves a justice system that is informed, responsive, and prepared to act with the seriousness that violent crimes require.

Lauren Warner, Deputy General Counsel for the Judicial Branch, noted that the mistake indicated by Representative Lynn around the language concerning the analysis of case processing statistics would require an amendment to correct, as that language had been left in by mistake.

Ellen Christo, Chief Judge of the Circuit Court of New Hampshire, spoke in opposition to the bill as drafted. She explained that she supported the efforts to strengthen judicial evaluations, and the addition of courtroom evaluations, but that she was against making these evaluations public.

- Stated that judges must remain impartial and independent, as they are required to decide cases based on the law, the facts before them, and nothing else. She argued that public evaluations could create a pressure on judges to align their decisions with public opinion. Judge Christo stated that even the perception of this pressure was itself an issue.
- Stated that there are already systems in place to hold judges accountable. If judges get the law incorrect, there is an appellate review. If judicial ethics are violated, the judicial conduct committee can hold them accountable. Complaints

can be filed with the administrative office of the courts. Judge Christo explained that she regularly meets with external stakeholders who have concerns with judges, staff, or court systems. She stated that these are effective ways of holding judges accountable while protecting judicial independence.

- Explained that judges are evaluated every three years, and that they see thousands of individuals over that period. Judge Christo stated that judges typically handle well over 100,000 cases a year. From this amount, only 20-24 individuals typically complete their evaluations; far from a meaningful sample size. She expressed concern that a very small number of dissatisfied litigants could have a disproportionate impact on a judge's evaluation; especially if these evaluations are made public.
- Stated that 90% of all complaints come from family division cases and that these are some of the most difficult and emotionally charged matters that they handle. Litigants often have intense emotions and reactions to the results of these cases.
- Stressed the importance that judicial evaluations do not become a public referendum on decisions that by their very nature may be unpopular.
- Explained that she had made the decision to step down from all social media upon becoming a judge and to limit her public presence as much as possible. Judge Christo stated that while this helps avoid conflicts in cases, it was primarily a matter of personal safety. She argued that publishing the names of these judges can intensify emotions not just for those involved but for the general public and make judges a focal point for those who are already angry or frustrated.
- Stated that judges have seen the number of threats they receive increasing, and that there have been situations nationally where hostility has escalated into threats or worse.
- Stated that a more balanced approach might be to keep the individual evaluations confidential while still making aggregate data on all judges public.
- Senator Reardon asked whether Judge Christo had noticed her colleagues failing to take seriously criticisms noted in evaluations.
 - Judge Christo answered that she felt the comment portion of the evaluations was the most valuable section for both her and her colleagues, and that they had aided her in improving her practices on the bench after her first evaluation.

- o She explained that part of why they had asked to remove the section on public comments in the House was that they did not believe much of this criticism would be constructive.
- o Stated that she receives the evaluation for every circuit court judge and that she meets with them should they score below a certain level. Judge Christo explained that they provide training and mentorship, pointing out that the three-year evaluations were not the only time they were working with judges and trying to improve performance.
- Senator Altschiller stated that she often receives messages of distress from her constituents who are distressed at the lack of progress their bills are seeing moving through the court system. She asked how the judge would feel about enabling individuals to be able to make their assertions and complaints while a case was occurring.
 - o Judge Christo answered that she would suggest that the timing issues were not an issue with the judges but an issue of limited resources. She explained that there were not enough judges to hear all cases
 - o Expressed that the appropriate way to deal with an issue with a specific judge was to ask the judge potentially to recuse themselves because of a particular issue.

David King, a retired circuit court judge, spoke against making judicial evaluations public. He explained that he had been working with the judicial branch in New Hampshire for 40 years, and had helped to draft House Bill 609 in 2010, which created the circuit court in the state. Judge King stated that while judicial evaluations were a very important tool, they were only one part of what is done in New Hampshire to ensure quality judging.

- Explained that he had been responsible for training more than 50 judges during his service, and had reviewed over 200 judicial evaluations during his time as an administrative judge. Judge King stated that he could not think of a time when he had been surprised by the result of an evaluation, and that they did not usually need to wait the three years for an evaluation to become aware of or to take action on an issue.
- Stated that administrative judges would be notified when there was an issue, and immediately take action to review that case.
- Expressed his understanding that the judicial branch has been present in the recent news and that there is some public angst, but argued that this bill targets the circuit court judges who are experiencing the heaviest caseloads.

- Explained that those circuit judges have access to the fewest resources; without law clerks or court monitors in the courtroom. Judges are often alone in the courtroom. Judge King stated that morale among judges is low at this time.
- Stated that the circuit court had not been consulted in the drafting of this bill, despite being the group most affected.
- Explained that the language in RSA 490, the statute that this bill would seek to amend, was taken directly from the American Bar Association's guidelines. The stated goal of the ABA's guidelines is to improve the performance of individual judges and the judiciary as a whole.
- Explained that accountability was not the goal of these guidelines, and that accountability would instead come from the Judicial Conduct Committee, the Supreme Court, and other areas.
- Cited the recommendation by the ABA (that) "except for the authorized uses of the performance evaluation and consistent with the law, the data and results should be confidential." The ABA also stated that judicial evaluations should be used only for judicial self-improvement and that "when judicial evaluations are used to improve the quality of the judiciary as a whole, results should not identify or give comparative rankings of individual judges."
- Explained that this issue has been in front of the legislature and considered closely in the past. He cited the creation of a committee in 2011 to examine judicial evaluations, which had a very diverse makeup of committee members including bipartisan membership from the legislature, 2:11:30 including the presence of Senator Sharon Carson and Representative Smith.
- Explained that this committee had heard testimony from Professor Jordan Singer from the New England School of Law which demonstrated that there was no confidentiality in surveys meant to educate voters, seen in states where judges are elected, but that a strong case could be made to keep the results of evaluations private when their single intent is to enhance judicial performance.
- Stated that the committee had yet to hear any evidence that making judicial evaluations public would improve performance.
- Stated that, in those states that elect judges, evaluations can be used as a weapon against an opponent. He argued that the judges in those states likely approached cases differently due to that pressure.
- Cited rule 2.4 of the professional rules of Judicial Conduct say a judge shall not be swayed by fear of criticism.

- Stated that he was certain that recusals would go up as a result of this legislation. Judge King presented a scenario in which a litigant might use the motion to recuse as a tool to get judges off the case.
- Cited the example of a case he had overseen last year as a senior judge, when it had taken years to become acquainted with the subject matter after taking over the case. Judge King explained that the time involved in a new judge taking over a case that fills a banker's box is enormous to the system.
- Argued that any judicial evaluation process should be uniform for all judges. Judge King stated that while the Supreme Court had helped to draft this bill, they had left themselves unaffected by its provisions, as their evaluations would remain confidential.
- Stated that the idea of in-court observation by judges was positive, but that the sitting judge would be aware that they were being watched when another judge was sitting in and that they might moderate any negative behavior as a result.
- Asked the committee to remove the portions of the bill that would make evaluations public; stating that the bill could be sent to a study committee so that the Senators could receive this feedback themselves and not be compelled to take his word for it.
- Stated that he had agreed to come here after being approached by 60 judges whom he now represented at this committee.

Susan Carbon, a retired circuit court judge, spoke in support of the provision in HB 1130-FN for court observation of judges but against making performance evaluations public. She argued that it would have the opposite effect to the intent to improve judicial performance and accomplish exactly which the legislature was seeking to prevent

- Explained that she had received numerous anonymous evaluations over the years and that she felt they were useful valuable tools towards improving the performance of judges.
- Argued that this legislation would create a chilling effect on the court where good candidates would not apply and good individuals on the bench will leave when they can.
- Explained that the judicial canon forbade judges from conveying even the impression that an individual or organization is in a position to influence them.
- Explained that circuit court judges worked with the fewest resources of any court in the state and the most difficult and contentious case types within that system.

- Explained that this bill would give disgruntled litigants a state-sanctioned system for weaponizing the evaluation process. An avenue would be opened for unwarranted public criticism, humiliation, and retaliation against judges for doing their job. Judge Carbon argued that justice is not and should not be for sale, and that this process would compel judges via public pressure.
- Stated that evaluations would become meaningless, and only completed by people with an axe to grind, hoping to humiliate or threaten judges into changing their behavior.
- Stated that the threats to judges from disgruntled litigants are very real. Judge Carbon explained that her first threat had come from an individual who had gone on to commit other crimes and is now incarcerated in Maine. After subsequent threats, she had had her house alarmed. Judge Carbon explained that other judges had similar stories.
- Explained that judicial branch data shows that there have been 30 incidents from 2021 to 2025 involving threats and inappropriate communications and that more than 75% of these have been directed towards the circuit court.
- Explained that circuit court judges work with minimal security and long hours that often compel them to leave at night. They do not have security guards and often have to park outside.
- Stated that while New Hampshire is fortunate to have not had any homicides of this kind in their state, other states have had serious attacks on judges and their families.
- Stated that litigants have means to evaluate judges using the performance evaluation committee and the judicial conduct committee. Judge Carbon was a member of the latter for many years and told the Senators that that committee takes the complaints of litigants very seriously. In her tenure, three judicial officers lost their positions.
- Explained that many litigants who complain are simply unhappy with the outcome of their case and argued that giving them a public forum to shame and blame a judge for following the law and being impartial would not be the appropriate remedy.
- Stated that publishing rank scores would pit judges against each other and lead to litigants filing motions to get a higher scoring judge. Judge Carbon argued that subjecting judges to competition and compliant would not enhance performance but lower morale.

- Argued that judges were not restaurants to be evaluated online but individuals performing incredibly difficult work under very difficult conditions every day. She stated that already meaningful performance evaluations should not be reduced to a game show contest.
- Asked that the committee strike the provision that mandates publishing results but that they retain court observations, or that the committee might recommend the bill for interim study so that judges could participate in developing other improvements.
- Senator Abbas asked how what percentage of the evaluations filed were from pro se litigants.
 - Judge Carbon answered that she could not say but that 85% of the cases in the circuit court involve self-represented litigants, but that they could be witnesses or from other agencies. She estimated that the vast majority are self-represented.

Jill O'Neill, the Executive Director of the New Hampshire Lawyer's Assistance Program, spoke against the bill, arguing that it would inadvertently create distrust within the judiciary.

- Argued against making public judicial evaluations, stating that it would make judicial leaders less likely to reach out to supervisory judges proactively for fears of highlighting performance issues that could be reflected in their annual reviews.
- Stated that in an attempt to create public transparency the bill would create distrust within the judiciary.
- Echoed previous speaker who had explored existing avenues for public transparency and complaints.

Daniel Albrecht, a lawyer and resident of Nashua, New Hampshire, spoke in support of the bill. He argued that the bill did not go far enough to compel the judiciary to police themselves but that there was no reason not to pass a good bill if it was a good bill.

- Stated that he had three different judges who have been formally reprimanded, disbarred, or criminally convicted. His first judge was criminally convicted and disbarred after influencing the ballot box on judicial evaluations.
- Stated that he had been part of a conflict of interest case with another Judge and a close friend of hers who is also the subject of judicial evaluations.
- Explained that another of his judges had been removed from the bench as a result of that judge's actions in Mr. Albrecht's case.

- Expressed his support for the comments of Ms. Schollett earlier in the hearing and stated that calling domestic violence victims that testify publicly in criticism of judges before the legislature “difficult litigants” was an insult to Ms. Lindsey Smith, a victim of domestic violence who had been killed after having her attempt at a restraining order denied.
- Argued that the Supreme Court ought to be held to the same standard as other judges and proposed amending the bill to include those judges.
- Stated that there were major concerns around the integrity of the Supreme Court both in the past and with some current calls by lawmakers in the house to conduct an investigation into Chief Justice MacDonald.
- Read an email from Judge King to another judge discussing the conduct during judicial evaluations, promising to send that email to the committee.
- Senator Abbas referenced Mr. Albrecht’s three examples of judges that had had faced some level of discipline for their conduct or behaviors and asked what it was not working within the judiciary that this bill would be able to change.
 - Mr. Albrecht answered that it would improve transparency, and that while it would not fix everything that was wrong with the judiciary it would be a step in the right direction.

BMB
Date Hearing Report completed: April 10, 2026