

Amendment H: Vote NO

Six reasons why Amendment H is bad for Colorado

1. Amendment H makes minimal changes to the judicial discipline process when much more substantial change is needed.
2. Amendment H inserts more conflicts of interest in the process by having the Supreme Court appoint judges to the proposed adjudicatory board and subsequent hearing panels when judges appointed by the Supreme Court are already on the discipline commission and rulemaking committee.
3. The current judicial discipline process does not work, and Amendment H will not make it work.
4. History shows that the procedures in Amendment H, including the minimal increase in transparency, affect less than 1% of complaints against judges and are not worthy of a constitutional amendment.
5. If Amendment H passes, it will be almost impossible to obtain necessary reforms because legislators will allege they did the job with Amendment H.

***state court administrator behaving
badly.***

What's Amendment H do?

***It gives the state court administrator
a direct role in judicial discipline.***

Scandalous

In 2021, a **judicial scandal** was revealed to the public. The scandal involved a state court administrator, the chief justice of the Colorado Supreme Court, and a former employee of the state court administrator's office behaving very badly.

The former employee allegedly blackmailed the state court administrator and chief justice into awarding her a lucrative contract. Allegedly, she claimed she would reveal allegations of misconduct by judges that should have been disciplined.

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as the information went public. The chief justice resigned and was disciplined. The legislature felt prompted to take action.

What does Amendment H do? It empowers the state court administrator with selecting the members of an adjudicatory panel who would hear a judicial discipline case.

In other words, Amendment H would place in the state constitution greater power for the state court administrator – the position that behaved so badly that it was the impetus for Amendment H.

Such power should not be given to the state court administrator. Such power should not be enshrined in the state constitution.

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Colorado Supreme Court.

Members of the adjudicative board, however, would be selected by the Supreme Court and the governor under Amendment H.

The Supreme Court would have appellate authority over the adjudicative board created in Amendment H.

The Supreme Court appoints members to a rulemaking committee whose rules that adjudicative board would have to obey under Amendment H.

The Supreme Court also already appoints members to the Colorado Commission on Judicial Discipline.

Oh, and the 3-member adjudicatory panels that are selected from the adjudicative board to hear a formal judicial discipline proceeding under Amendment H? They are selected by the State Court Administrator who is hired by, and who reports to . . . (care to make a guess?) . . . the Supreme Court.

So, is there any truth in the allegation stated in proposed Amendment H that the adjudicative board created by Amendment H is independent?

No.
This claim in proposed Amendment H is



Amendment H is far from perfect.

**Colorado could do so much better than
Amendment H.**

*** We could have a discipline commission where
a judge serves only in an advisory
capacity.**

*** We could have 100% transparency of
complaints against judges.**

*** We could hold judges to a high standard of
care by having the burden in judicial
discipline proceedings be a
preponderance of the evidence.**

**Send legislators back to the drawing board:
Vote NO on Amendment H.**

Why is Amendment H on the Ballot?

THE JUDICIAL BRANCH SCANDAL

It all started with what is loosely referred to as the judicial scandal. In February 2021, it was revealed in a [Denver Post story](#) that a lucrative contract (\$2.5 million) had been awarded to a troubled former employee of the state court administrator's office by the state court administrator and the chief justice. Allegedly, the contract was awarded to keep the former employee quiet.

The former employee had kept track of complaints against judges that should have been disciplined or reported. Allegedly, she threatened to reveal the incidents. She was referred to as "the fixer" within the judicial department when it came to complaints against judges. Apparently, she could make the complaints go away.

After the story went public, the money wasn't paid on the contract to the former employee. The [state court administrator resigned](#) when the story went public. The chief justice, Nathan B. Coats, had already resigned due to age. He was [subsequently disciplined](#). It all made the news. The legislature felt backed into a corner to finally do something.



\$2.5 million contract awarded by chief justice and state court administrator to former employee allegedly to keep her quiet.

Investigations paid for by judicial branch

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Brian Boatright, Justice on the Colorado Supreme Court and chief justice after the judicial scandal broke and the previous chief justice resigned. Boatright's strategies kept judicial branch documents from the public and from legislators.

Legislators **took Boatright's offer and selected investigators**. Meanwhile, changes to the judicial discipline system were threatened in public. The legislature decided to have an interim committee study the issue. A legislator admitted during a hearing on the bill to create the interim committee that the Boatright wanted a two-tier judicial discipline system. Two-tier means the prosecution and adjudication duties should be in separate entities.

This was another strategic move by then Chief Justice Boatright. First, he took charge of the investigation by offering to pay for it. Second, he started lobbying legislators for what changes should be made to the judicial discipline process. Boatright knew that the best defense is often a strong offense.

You see, Colorado already has a two-tier system -- it's just not mandatory. So, Boatright was sending legislators on a chase to achieve the slightest tweak to Colorado's judicial discipline system without holding judges any more accountable. State Senator Pete Lee for the Democrats and State Senator Bob Gardner for the Republicans were taking the lead on all of this. They are long-time judicial branch allies who have both run legislation on behalf of the judicial branch. Boatright knew he was safe with them at the helm.

the helm.

Interim Committee created to propose Amendment H

After Lee created the agenda for the interim committee, **criminal charges were filed against Lee** alleging that he registered to vote at an address where he didn't live. Lawmakers are required to live in the district they represent. He resigned and his involvement with the interim committee stopped. Representative Mike Weissman took over the duty of chairing the interim committee. Weissman is a licensed lawyer who has never practiced law. You would be hard-pressed to find someone more susceptible to doing exactly what the judicial branch wanted.

Weissman followed the agenda set by Lee. Weissman talked repeatedly in hearings about the time he was spending talking on the phone with Representative Terri Carver, another lawyer legislator who never practiced in Colorado state courts. Meanwhile, Weissman kept public comments to a minimum and interrupted members of the public when they were going over short time limits. If the committee was looking to understand the problem and how to solve it, he would not have cut off the testimony. He would have listened. But that wasn't the goal of the committee. The goal from the start was to propose the two-tier judicial discipline system requested by Boatright.



Top: Former State Senator Pete Lee.

Bottom: State Representative Mike Weissman

Information withheld based on judicial branch privilege



So, why didn't the legislature fight for the documents? Why didn't the legislature issue a subpoena? Legislators didn't even issue subpoenas to any witnesses to testify. Neither the woman in the scandal nor the former chief justice testified were subpoenaed. Wouldn't they be necessary witnesses if the legislature was really trying to figure out what happened and how to solve it? Why weren't they questioned?

Criminal charges avoided

Meanwhile, **statutes of limitations on criminal violations were running**. So, while the judicial branch was withholding documents, and the legislature was doing absolutely nothing to get the documents, Denver's District Attorney was not getting documentation needed to criminally charge anyone. Those involved in the scandal, government employees, were getting help from other government employees to avoid accountability.

The hearings were simply a dog and pony show to get Boatright what he wanted: a two-tier system that would be a ridiculously minimal change from the current system. And legislators did exactly as Boatright wanted. The **interim committee** proposed a couple of bills along with a resolution to put a constitutional amendment on the ballot to create the two-tier system requested by Boatright.

Meanwhile, Lee's case proceeded to court. He was a long-time judicial branch



The resolution for Amendment H proceeds



Left: Representative Mike Lynch who had not disclosed he was on probation for a DUI at the time he placed himself on House Judiciary to get the resolution for Amendment H through committee.
Right: Mike Lynch's brother, Thomas Lynch, who is a Larimer County Court Judge.

The **resolution to create Amendment H was introduced** in the legislature (HCR23-1001). The resolution was assigned to the House Judiciary Committee. Representative Mike Lynch was House Minority Leader. Lynch was not on the House Judiciary Committee. Lynch's brother, Thomas Lynch, is a county court judge in Larimer County.

Apparently, there were still concerns that the resolution for Amendment H wouldn't go through smoothly. Representative Lynch used his leadership position to place himself on the House Judiciary Committee for HCR 23-1001 (Amendment H) to ensure it would get through. He removed another member of House Judiciary so he could sit on the committee. It would subsequently be revealed that **Lynch was on probation for a DUI** that he had not disclosed to the public. So not only was Lynch's brother a judge, Lynch had a case in the court system at the time he removed a member of House Judiciary and placed himself on the committee to ensure the passage of HCR 23-1001.

Lynch's efforts paid off. The resolution sailed through House Judiciary and the rest of the legislature as well. Boatright and the rest of the judicial branch are thrilled.

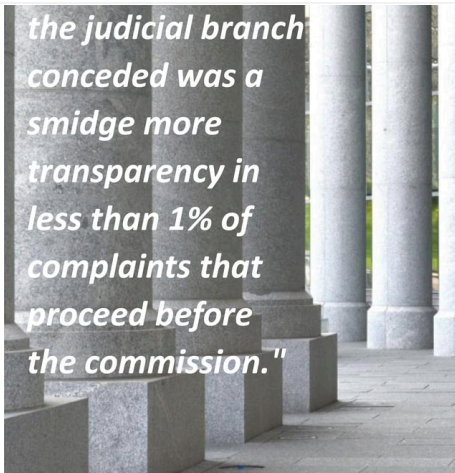
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chief justice to award a lucrative contract to a former employee to keep her quiet. None of it would prevent the scandal from happening again. None of it would hold any judge more accountable.

What does Amendment H do? It gives the state court administrator – the position involved in the scandal – direct power in judicial discipline proceedings. It's perfect for judicial branch members who want to remain unaccountable while making it look like something was done. Boatright successfully manipulated the legislature to put Amendment H on the ballot. What did the judicial branch give up? The only thing the judicial branch conceded was a smidge more transparency in less than 1% of complaints that proceed before the commission. That's it.

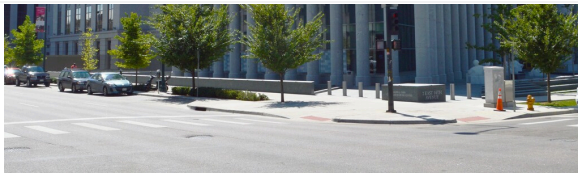


A missed opportunity

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The Ralph L. Carr Judicial Center in downtown Denver where the Supreme Court resides.

Colorado, complaints against a judge have to be proven by clear and convincing evidence, which is a very difficult burden to prove. In other words, Colorado judges are held to a low standard of care and will continue to be held to that low standard under Amendment H.

This **above solutions were provided to the interim committee** by the Executive Director of The Judicial Integrity Project. But the interim committee wasn't interested. The legislators weren't trying to hold judges more accountable. The goal of the interim committee was not to listen. The legislators were trying to appease the public with a show. While their goal was to do what the then chief justice, Boatright, wanted.

And Boatright's move was critical for keeping the Colorado Judicial Branch unaccountable. The current discipline commission was adopted by a constitutional amendment that became effective in 1967. That's 57 years ago. Boatright is justifiably counting on the fact that the judicial branch will keep the discipline commission from being amended for another 57 years no matter how troubled it is. If there are issues, the judicial branch will claim we need to wait to see if Amendment H works. Indeed, legislators will claim they did the job with Amendment H. Amendment H is a strategic move by the judicial branch to avoid the responsible judicial reform Colorado desperately needs.

Boatright is up for retention in 2024. Should the political mastermind behind Amendment H, who orchestrated the denial of documents to legislators and law enforcement, be retained in office? Rep. Mike

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Amendment H makes minimal changes to the judicial discipline process when much more substantial change is needed. Having judges on the proposed adjudicatory board and panels while also on the discipline commission and on the rulemaking committee leaves too many conflicts of interest in the process. The current judicial discipline process does not work, and Amendment H will not make it work. History shows that the procedures in Amendment H affect less than one percent of complaints against judges and are not worthy of a constitutional amendment. If Amendment H passes, it will be almost impossible to obtain necessary reforms because legislators will allege they did the job with Amendment H. Empowering the state court administrator with a role in the judicial discipline process is a mistake.