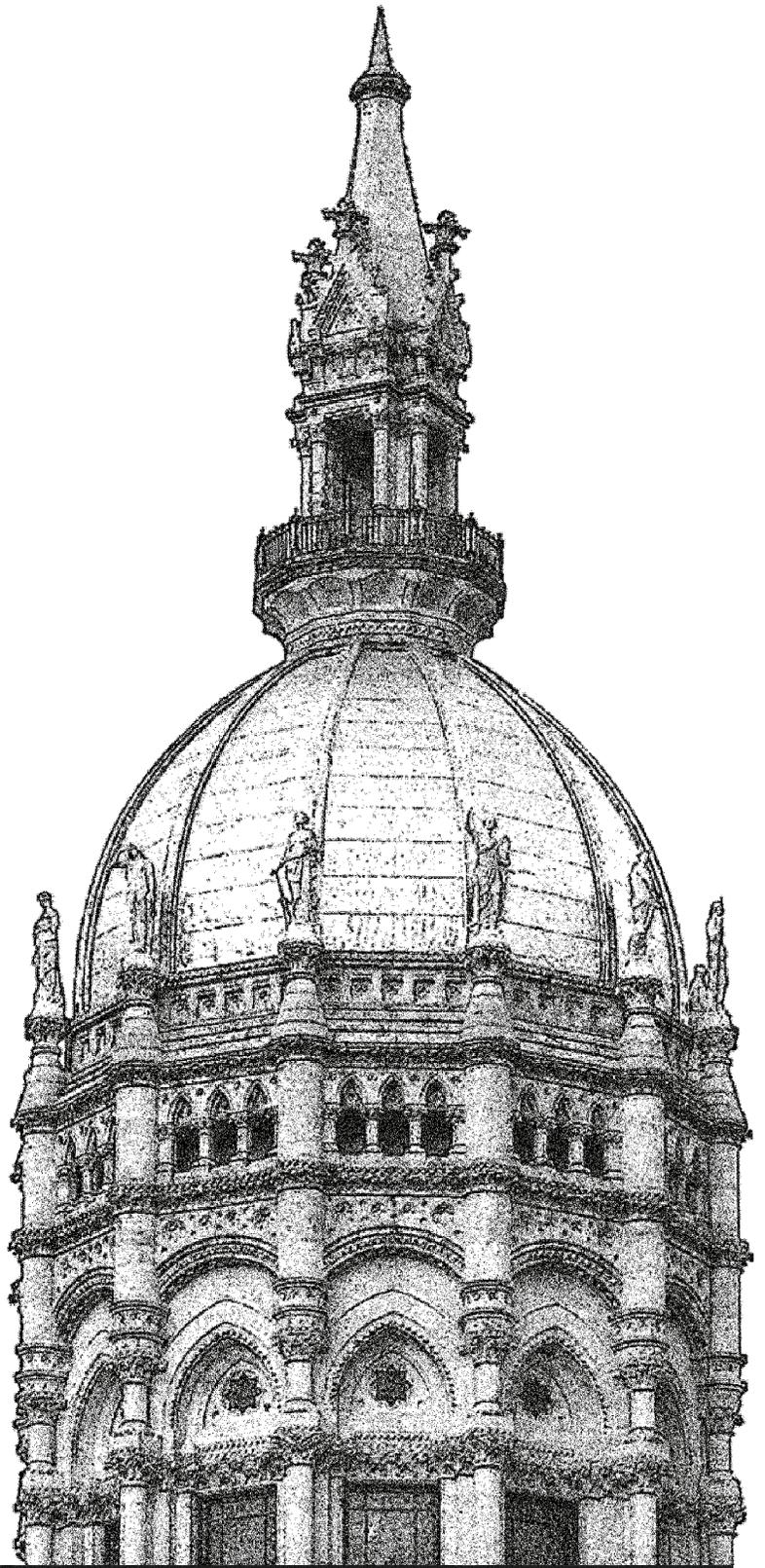


Connecticut Probate Court System

January 2006



PRI

**Legislative Program Review and
Investigations Committee**

Connecticut General Assembly

**CONNECTICUT GENERAL ASSEMBLY
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 to evaluate the efficiency, effectiveness, and statutory compliance of selected state agencies and programs, recommending remedies where needed. In 1975, the General Assembly expanded the committee's function to include investigations, and during the 1977 session added responsibility for "sunset" (automatic program termination) performance reviews. The committee was given authority to raise and report bills in 1985.

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LEGISLATIVE PROGRAM REVIEW
& INVESTIGATIONS COMMITTEE

Connecticut Probate Court System

JANUARY 2006

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Introduction

Overview

In April 2005, the Legislative Program Review and Investigations Committee voted to undertake a study of the state's probate court system. The study focused on the operations and finances of the probate court system and examined whether the current structure is administratively and financially viable.

Over the years, various groups have examined the structure and operations of the probate court system with recurring themes but differing results. Several operational changes have been implemented but the probate courts remain a separate and distinct court system retaining their administrative and fiscal autonomy.

With more than a 300-year history, the Connecticut probate court system is one of the oldest in the nation. Since 1850, probate judges have been elected officials serving the voters of the towns comprising their respective probate districts. Currently, there are 123 probate judges serving four-year terms. The only requirement to serve as a probate judge is to be an elector within the probate district.

The traditional probate court function is the administration of decedent's estates or "probating", which is the process of proving that a will is genuine and distributing the property. Probate courts now handle a variety of matters in addition to decedent's estates such as: conservatorships; children's matters including guardianship and temporary custody, termination of parental rights, and adoptions; commitment of mentally ill children and adults; guardianship of persons with mental retardation; and name changes.

The probate court system is structured to be self-supporting without assistance from the state's general revenue. The probate court administrator, appointed by the chief justice of the state Supreme Court, has general oversight of the probate system. For years, projections from the administrator's office have anticipated a financial crisis. Examination of probate court expenses reveals certain categories of expenditures such as health insurance and costs associated with indigent cases have a significant financial impact on the probate system.

Overall, the program review committee found a current lack of administrative controls affects not only probate finances but also court operations. A need exists for the establishment and enforcement of fiscal accountability and minimum operating standards. The committee also believes that voluntary consolidation of the probate courts is reasonable given the need for stronger financial accountability along with evidence of workload inequities in the current probate districts

Methodology

During the study, the program review committee staff interviewed a number of individuals including: the Probate Court Administrator, the staff of the Office of the Probate Court Administrator (OPCA), the President of the Probate Assembly, various probate judges

representing courts of all sizes, members of the Connecticut Bar Association, and representatives from the Connecticut Council of Small Towns. In addition, a public hearing was held before the program review committee on October 7, 2005.

Data were collected and analyzed from various documents prepared or maintained by the Office of the Probate Court Administrator including annual comparative financial reports, individual court income and workload reports, evaluations of court visits, and complaints received by OPCA regarding individual courts. Prior evaluations and proposals about the Connecticut probate courts were examined. (A summary of prior reports is provided in Appendix L.) Information was also obtained from the National Center for State Courts and the National College of Probate Judges.

Also, two opinion surveys were conducted. One survey was sent to all 123 probate judges and another was mailed to a random sample of 500 attorneys who practice before the probate courts. The judges were asked questions relating to the Office of the Probate Court Administrator and their opinion on a number of items including financing, court operations, and reorganization alternatives. The probate attorneys were asked about their experience with the Connecticut probate courts and to rate the courts' performance. The attorneys were also asked opinion questions on probate fees, court operations, and court jurisdiction. Many of the same opinion questions were posed to both judges and attorneys. (Copies of the surveys with tabulated results, cover letters, and method of random selection are provided in Appendix A.)

Report Format

This report has six chapters. Chapters I and II cover the administration of the courts and management of the Office of the Probate Court Administrator. Chapter III provides an overview of probate court financing and contains one recommendation. Chapter IV examines the current and future financial viability of the probate system and the individual courts and contains related recommendations. Chapter V gives a summary of the program review survey results. Finally, Chapter VI discusses the program review committee findings and recommendations related to system regulation and structure.

It is the policy of the Legislative Program Review and Investigations Committee to provide agencies included in the scope of a review with the opportunity to comment on committee findings and recommendations prior to the publication of a final report. A written response to this report was solicited from the Office of the Probate Court Administrator. The response submitted by OPCA is contained in Appendix M.

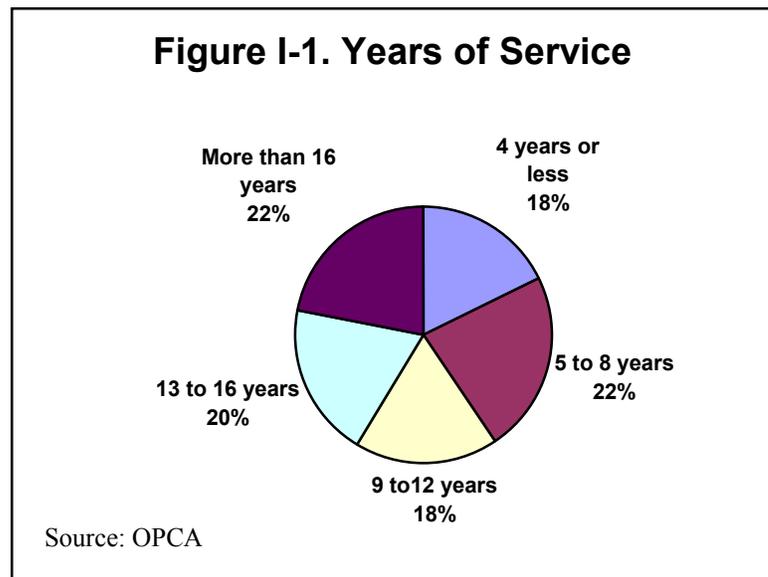
Probate Court Districts

The Connecticut probate court system began over 300 years ago with the establishment of four county courts in Hartford, New Haven, Fairfield, and New London. Over the years, additional courts were carved out of the larger districts. By 1800, there were 28 probate districts; in 1850, 91 districts; and in 1900, 112 districts. Fifty years later in 1950, there were 120 probate districts. By 1993, there were 133 districts, the largest number of probate courts to date. Currently, there are 123 probate courts with a consolidation planned for four districts in 2006.¹

Ninety-three of these probate districts consist of one town each, while the remaining 30 districts contain from 2 to 6 towns (Norwich). The smallest probate district by population is Cornwall (1,454), and the largest is Bridgeport (140,104).

Probate judges. Since 1850, probate judges have been elected officials with one judge serving in each probate district. The probate judge's four-year term of office is set by the state constitution. The probate judge must be an elector of a town within the district in which he or she is elected to serve. Before entering upon his or her duties, a probate judge must take an oath of office. There are no term limits; however, the mandatory retirement age is 70. Unlike Connecticut superior court judges, probate judges are not required to be attorneys. Currently, 89 of the 123 probate judges (72 percent) are attorneys. The remaining 34 probate judges engage in various other professions including a teacher, town historian, accountant, legal assistant, karate instructor, carpenter, property manager, and psychologist. (Training for probate judges is discussed in the following chapter.)

Figure I-1 shows the number of years the current group of probate judges has been in office. The time in office ranges from less than one year to 33 years of experience. As the figure shows, 18 percent of the judges (22) have been in office for one term or less. The majority has been elected for two terms or longer with 22 percent (27) serving more than 16 years in office.

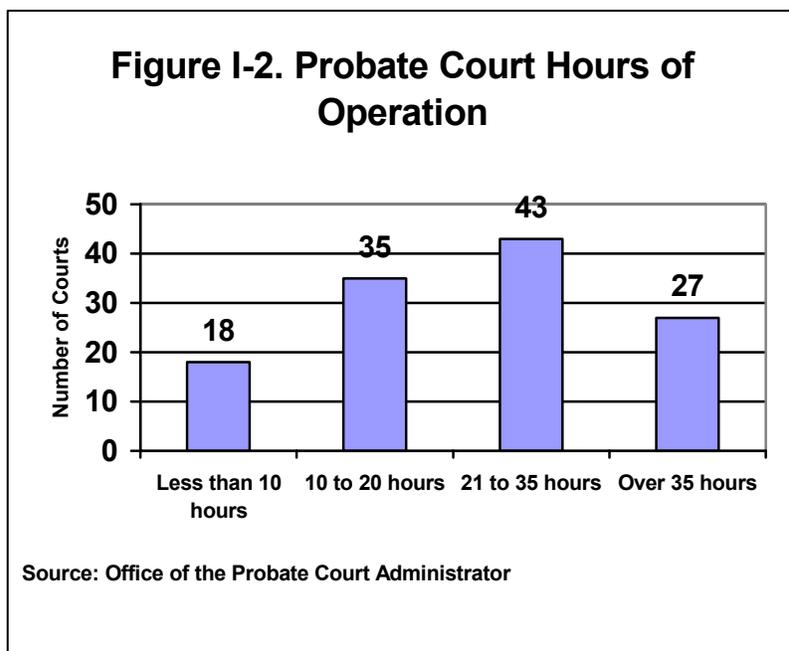


¹ Public Act 04-19 eliminates the four probate districts of Canaan, Cornwall, Salisbury, and Sharon. The act establishes a new probate district of the Northwest Corner in 2006, consisting of all towns from the probate districts the act eliminates: Canaan, Cornwall, North Canaan, Salisbury, and Sharon.

Probate court staff. Probate judges have discretion in the selection and compensation of court staff as well as the hours worked by their employees. Judges may select one or more clerks or other employees to staff the court. Probate court employees are not state employees and serve at the pleasure of the judge. Probate clerks handle the daily operations of each probate court. Among their duties, clerks file and certify documents and records, maintain the court’s seal, issue hearing notices, prepare notice of decrees, and manage the court in the judge’s absence.

Probate court facilities. Currently, the majority of towns provide office space for the probate courts in their town halls. At a minimum, the court facilities must include a room for the judge to conduct judicial proceedings in private, a separate room for court staff, appropriate furnishings, access to a larger hearing room, use of copiers, microfilming, telephone service and other related supplies. State law requires each probate judge to keep the records and files of the probate court in a fire-resistant safe or vault in office space provided by the town or towns comprising the probate district.

Court hours are set by each probate judge. Figure I-2 shows the current hours of operations for the probate courts. Seventy courts are open more than 20 hours a week with 27 open for more than 35 hours (full-time). Eighteen courts are open for less than 10 hours a week. All but one of the 18 courts open less than 10 hours serve populations of less than 10,000. In general, probate courts serving larger populations are open for longer periods. However, there are a few small courts that are open more than 35 hours such as New Canaan, Ridgefield, and Southbury.



Probate court proceedings. The proceedings in the probate court are generally informal; for example, the judges do not wear robes. Depending on the proceeding, the parties appearing before the probate courts may be represented by counsel. Probate hearings are not usually recorded; however, contested matters may require the taking of evidence so that the judge can make a proper determination of facts or law. Contested hearings may be tape-recorded if the parties agree and pay the costs. Probate judges may seek assistance from any superior court or probate judge as well as from the administrator’s office in the determination of any pending matter.

In addition to conducting daily court activity, probate courts have a number of administrative and statutory reporting requirements. Financial and caseload information must be submitted to the Office of the Probate Administrator on a regular basis.

Matters handled by probate courts. The jurisdiction of probate courts is established by statute, and has grown over time. Currently, a probate court can handle a range of matters related to: settling decedent's estates; managing trusts; establishing and monitoring conservatorships for incapacitated persons; establishing and monitoring guardianships for persons with mental retardation; commitments of mentally ill persons; and many issues related to children and parental rights, including termination of parental rights, appointment and removal of a child's guardian, and adoption. (A brief overview of the probate court's roles and responsibilities may be found in Appendix B.)

Some of these matters are also handled in the state superior court system. The probate courts have exclusive jurisdiction over decedent's estates and conservatorships, but jurisdiction over child custody matters, accountings of trusts, construction of wills and estates, and determination of title property is concurrent or shared with the superior courts.

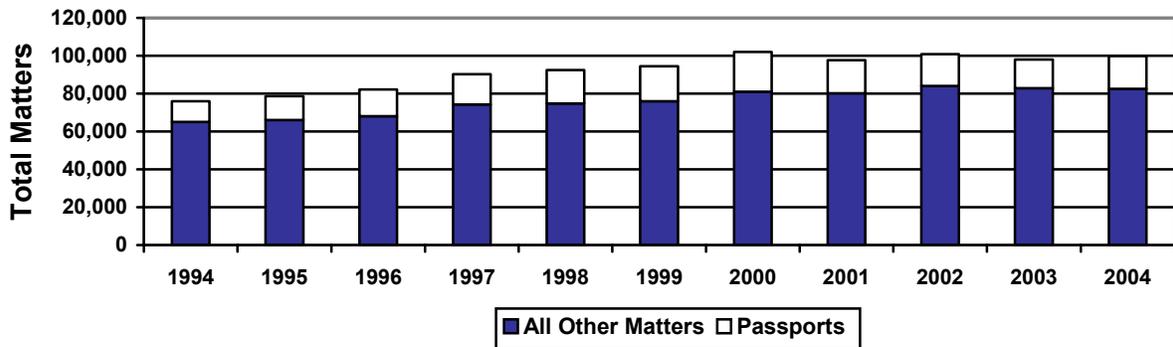
As the list of matters that can come before a probate court indicates, a probate judge can face a wide array of cases at any given time, with different levels of complexity and criticality. Many people who come before a probate judge not only have legal issues to resolve, but can also have significant social and medical issues connected to their legal concerns. Many issues before the probate court may be handled in an informal way, but in some cases, a probate judge presides over hearings, considers testimony and other evidence, and makes decisions that can affect people's lives in very fundamental ways.

Workload Activity

On a monthly basis, each probate court must submit to the administrator's office a tally sheet, developed by the administrator, providing a breakdown of the number of each specific matter acted upon by the individual court. The statewide statistics are tabulated annually and published in the administrator's annual report.

Figure 1-3 illustrates total matters handled annually by the probate courts from 1994 to 2004. From 1994 to 2000, there was a consistent rise in the probate courts' workload. Since 2000, there has been some fluctuation in the total number of matters before probate courts. In 2004, there were 99,783 matters presented to the probate courts. Excluding passports, the total number of matters in 2004 was 82,479. (While passport activity is high in some probate courts, other courts handle very few or have chosen not to do them at all.)

**Figure 1-3. Total Probate Matters
1994-2004**



Source: Office of the Probate Court Administrator

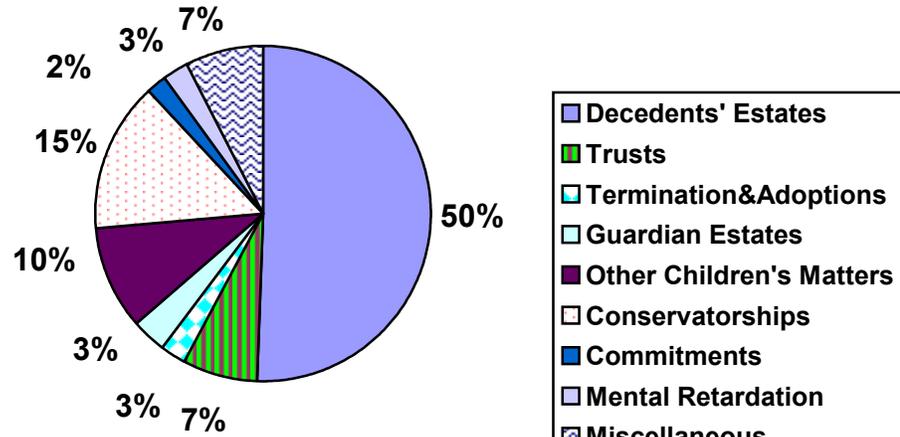
Workload by subject matter. As described earlier, probate courts have many matters under their jurisdiction. The administrator’s annual statistical report, generated from the tally sheets, categorizes probate matters into the following areas:

- decedent’s and small estates;
- trust matters;
- conservators;
- guardian of estates;
- adoptions and terminations of parental rights;
- other children’s matters;
- commitments;
- proceedings regarding mentally retarded persons; and
- other miscellaneous matters.

Other children’s matters include emancipation of minors, paternity claims, a variety of custody hearings, and informal status conferences. Among the other miscellaneous matters are name changes, permission for marriage, and fee waivers. (A copy of a tally sheet is provided in Appendix C.)

In 2004, the Connecticut probate courts handled a total of 82,479 matters (excluding 17,304 passports). As illustrated in Figure I-4, half of all the matters involved decedent’s estates. The second largest category involved conservatorships (15%) followed by various children’s matters.

**Figure I-4. Probate Matters by Category
(Excluding Passports):2004**



Source: LPR&IC analysis of 2004 OPCA Tally Sheets

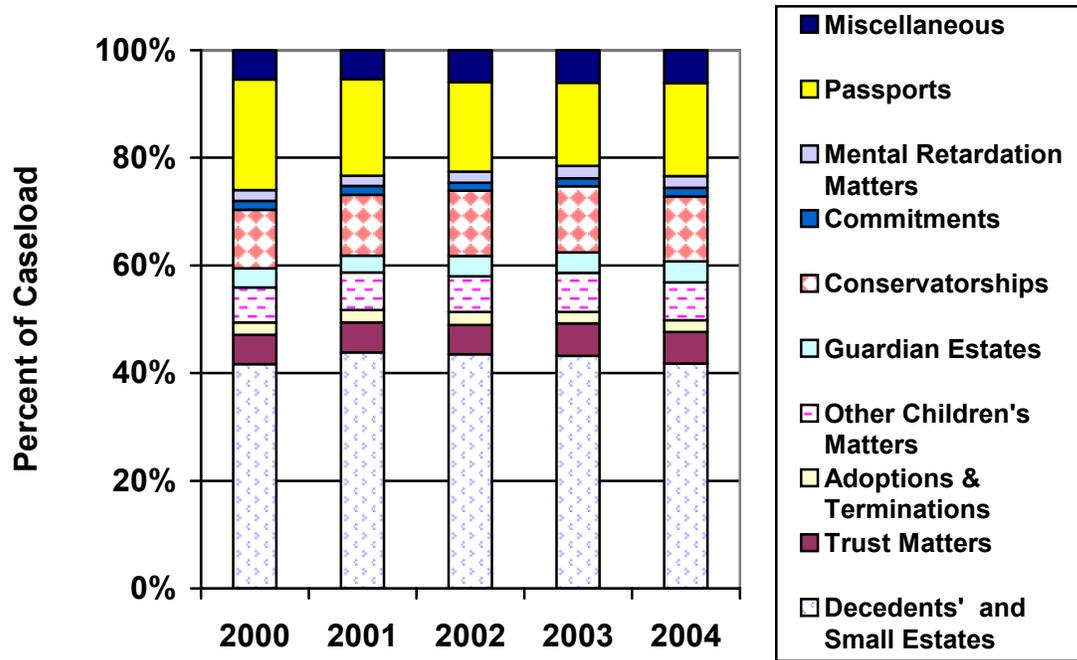
Figure I-5 illustrates the caseload trend by subject matter category since the year 2000. As the chart illustrates, decedent's and small estates comprise the largest portion of the probate workload averaging more than 40 percent of the caseload each year. The second largest workload category is passports followed by conservatorships. In general, the subject matter ratio has remained the same during this time period.

Weighted workload. During the late 1990s, the probate court system implemented the use of a weighted workload. The concept of a weighted workload was conceived in light of what was seen as disparities in workload and compensation among districts. Each activity within a subject category is assigned a whole number weight between one and five with five being the most difficult type of activity.

The annual weighted workload of a probate court is the number resulting from the multiplication of the weight assigned to an activity by the total number of each category of case handled by the probate court in a calendar year. This is calculated on the tally sheets and does not include passport applications. (A copy of the tally sheet showing the corresponding weighted workload is provided in Appendix C.)

For example, contested wills are assigned a weight of five and name changes have a weight of two. If a court handles three will contests and 12 name changes, the unweighted workload would be 15, while the weighted workload would be 39. Further analysis on the distribution of weighted workload is provided in the findings and recommendations chapter of this report.

Figure I-5. Caseload Since 2000



Source: LPR&IC analysis of OPCA Tally Sheets

Structure of the Probate Court System

The probate courts are considered a separate group within the state's Judicial Department. As part of the Judicial Department, the probate court system is under the direction of the Chief Justice of the Connecticut Supreme Court. The chart on the following page provides the basic structure of the probate courts in relation to the rest of the state's judicial system.

Unlike the state supreme, appellate, or superior courts, the probate courts are not constitutional courts. As noted earlier, probate courts are statutory courts established by the legislature. The probate court's jurisdiction over decedent's estates and conservatorships is exclusive. However, the probate court's jurisdiction over child custody matters, accountings of trusts, construction of wills and trusts, and determination of title to property is concurrent or shared with the superior courts. Parties aggrieved by probate decisions may appeal to the superior court.

The chief justice appoints a chief court administrator who is responsible for the overall operation of the Judicial Department. The probate courts operate under a separate court administrator, also appointed by the chief justice, who oversees the administrative operations of the probate system. However, the probate administrator does report certain statutory duties to the chief court administrator. The probate administrator's budget requires review by the chief court administrator. The chief court administrator may meet with the probate court administrator or any judge as deemed necessary to insure the efficient administration of judicial department.

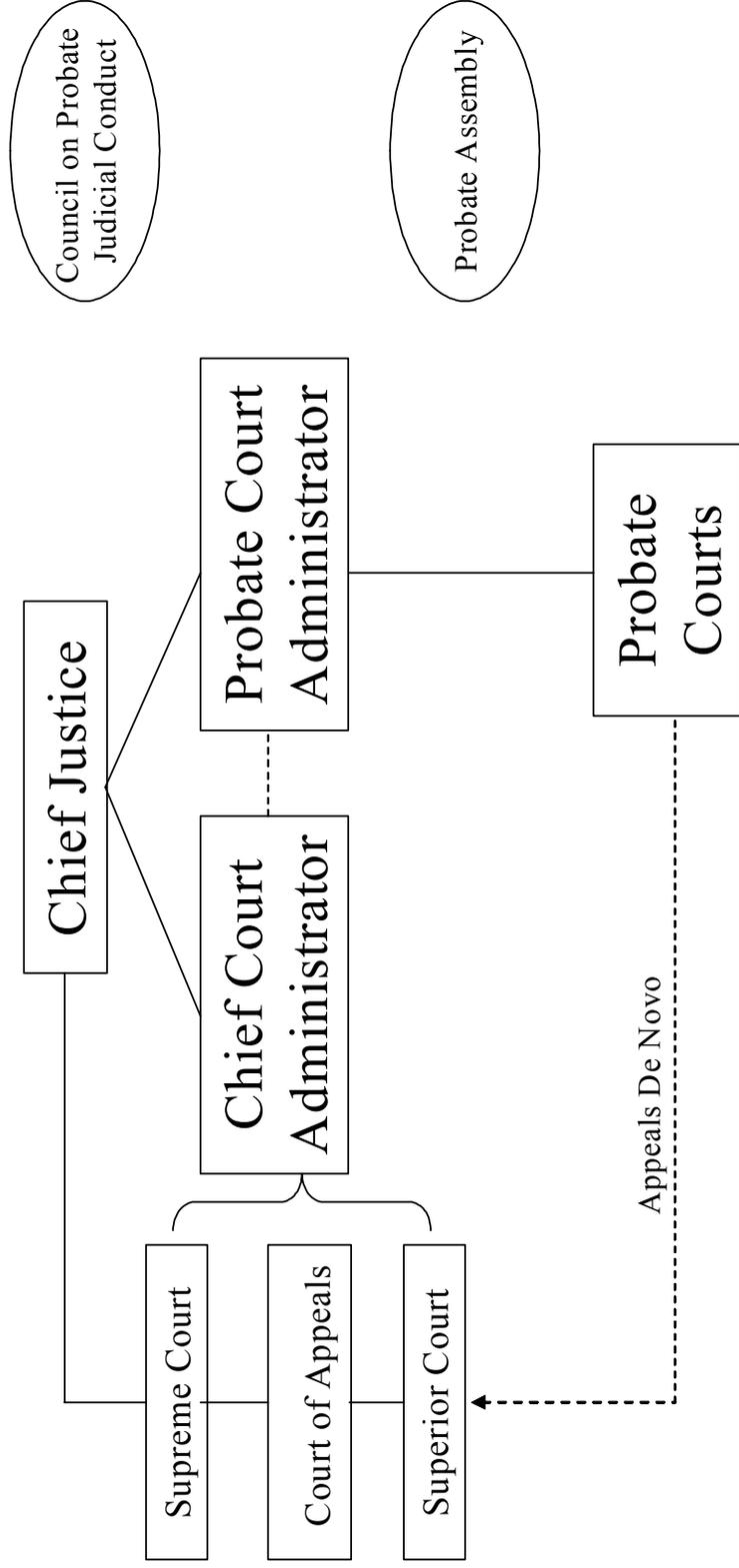
Office of the Probate Court Administrator

The Office of the Probate Court Administrator was created in 1967 in an effort to increase uniformity throughout the system. At that time, there were 125 district courts that followed their own procedures and developed their own forms. In response, the legislature created the office and position of the probate court administrator. Connecticut General Statutes §45a-77 sets out the broad authority of the administrator position to "attend any matters which the probate court administrator deems necessary for the efficient operation of courts of probate and for the expeditious dispatch and proper conduct of business of those courts." The following discussion outlines the current structure and duties of the Office of the Probate Court Administrator.

Administrator and staff resources. The Chief Justice of the Connecticut Supreme Court appoints the probate administrator from among the sitting probate judges. The probate court administrator may remain a probate judge or choose to resign that office. The current administrator, appointed in 2002, has chosen not to hold the office of probate judge.

By statute, the administrator's salary is the equivalent of a superior court judge. The administrator is paid by the Judicial Department through the probate administration fund. The

Figure II-1. Structure of the Probate Court System



administrator may appoint and set the compensation for office staff with the approval of the chief court administrator of the Judicial Department. Permanent staff are considered judicial employees and receive retirement and other benefits as state employees. All salaries and operating expenses are paid from the probate administration fund. As of August 2005, the Office of the Probate Court Administrator had a staff of 16 permanent employees and 12 contractual workers. Figure II-2 provides an organizational chart for the office.

As the chart shows, the agency has staff dedicated to financial, legal, legislative, and information technology matters. In addition, there are contractual workers hired for special projects and to staff the New Haven regional children's court. The special projects include the training and installation of laserfiche software, the evaluation of the operating procedures of the probate court administration office, and an evaluation of the New Haven regional children's court.

Roles and Responsibilities

The Office of Probate Court Administrator has a number of responsibilities and functions. The primary duties are to review the administrative and financial operations of the courts to ensure that legislative changes and rules of probate are being followed and that the courts operate efficiently. By law, probate judges and court employees are required to cooperate with the administrator's office by providing any information, other than confidential material, bearing on the business of probate.

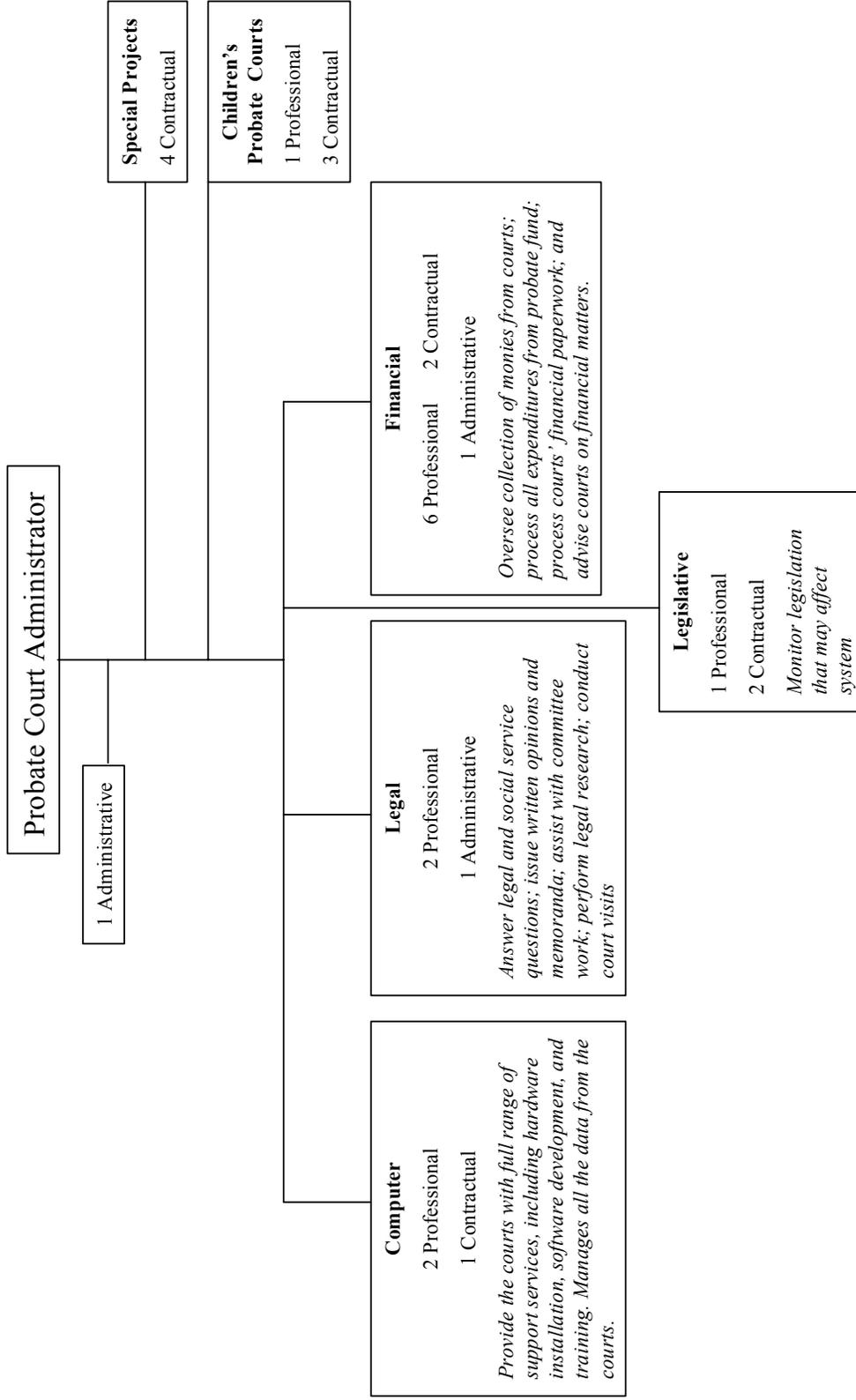
Legal research and opinions. The administrator's legal staff serves as a resource to probate courts. The probate judges may ask the staff to conduct legal research and answer legal and social service questions. The staff prepares written opinions and memoranda and assists with the Probate Assembly's committee work. The opinions are kept on file and act as a guide for the judges in the decision-making process. The opinion are considered administrative in nature and do not have the force of law.

If there is a change in policy or procedure, the administrator's office will issue a transmittal memorandum (TR) to each court. The TRs serve as a permanent reference explaining the fine points for all areas of probate court jurisdiction and the corresponding probate forms.

Court visits. The administrator is required to regularly examine the auditing, accounting, statistical, billing, filing, and other procedures of the probate courts. Court visits are statutorily mandated at least once during a two-year period to examine the records and files. The administrator or his designee, who must be an attorney, may conduct the visits. The administrator may make any additional inquiries to ascertain the business of the court.

Prior to the visit, the court will receive a questionnaire regarding the time required to complete various matters, the timeliness of DCF investigations, the status of microfilming, hours of court operations, and any problems the court is experiencing. The judge must be present during the court visit. During the visit, the court facilities are inspected to insure that court records are accessible and are stored properly. There is also a random examination of the court records to determine if there is a backlog. Any deficiencies are brought to the judge's attention.

Figure II-2. Organizational Chart of the Office of the Probate Administrator (as of August 2005)



Financial audits. The administrator's office is required to regularly review the financial operations of each probate court. The frequency of the audits depends on the court's income. Courts with gross annual incomes in excess of \$75,000 are audited every year. Courts with gross annual income between \$30,000 and \$75,000 are examined on a biennial basis and courts with less than \$30,000 in gross annual income receive audits every three years.

The audits examine the court's financial documentation including receipts, disbursements, cancelled checks, bank statements, payroll records, and supporting documents. In addition, the audit includes a review of the mandated income reports filed by the judge and, if necessary, a re-computation of assessments.

Until recently, the administrator's office had an internal auditor who performed this function. The office currently contracts with two individuals to complete the audits.

Handling of complaints. The administrator's legal staff also receives and reviews complaints regarding probate courts. If the complaint relates to a probate court decision, the complainant is informed of the right to appeal to the superior court. If there is a question of misconduct, the complainant is made aware of the Council on Probate Judicial Conduct. (The council is discussed later in the chapter.)

On average, the office receives three to four complaints per month. To date, the administrator's office has not referred a complaint to the council. Typically, complaints dealing with court operations such as being closed during posted operating hours or delayed or unanswered phone calls are handled informally. In such cases, the probate administrator or his staff will address the issue with the probate judge.

Training for new probate judges. Newly elected probate judges are required to complete a training program developed by the probate court administrator. The training must be completed prior to the judge assuming office. At minimum, the training curriculum is statutorily required to address the rules of judicial conduct and ethics as well as the operation of the probate court and resources available to judges. A new judge must also receive training during his or her first six months in office in these areas:

- civil procedure including constitutional issues, due process, and evidentiary considerations;
- property law with conveyance and title considerations;
- wills and trusts; and
- family law.

Continuing judicial education. Every year probate judges must complete a minimum of 15 credit hours of approved judicial education. At least five of the 15 hours must be earned by personal attendance at probate administration or Probate Assembly sponsored programs. Judges may also satisfy the five-hour "in-person" credits with attendance at probate district regional meetings that include probate administration-sponsored programs on basic probate procedures. Although excess "in-person" credits may be carried over to the next calendar year, they will only

satisfy the general 15-hour minimum requirement and not the required five hours. Credit hours may not be carried forward for more than one year.

Credits must be earned in continuing education instruction or activities approved by the judicial education standards committee of the Probate Assembly.² Among the events presumptively approved for credit are:

- Connecticut Probate Assembly/probate court administrator’s seminars;
- events sponsored by the:
 - National College of Probate Judges,
 - American Bar Association,
 - Connecticut Bar Association, and
 - county and local bar associations;
- accredited Connecticut law or medical school courses;
- Probate Assembly or probate court committee meetings; and
- regional meetings of the probate judges.

Judges may also receive credit for presenting seminars and other instructional materials related to probate law and procedures upon approval of the judicial education standards committee. Audio and video presentations of the probate administration’s continuing education sessions are available to the probate judges. Judges using the audio and video materials receive credit towards the general 15 hour training requirements instead of the in-person credit.

Judges must submit to the probate administrator an annual statement of the number of hours of judicial education programs attended during the reporting period. Any judge failing to comply with these requirements is referred to the executive committee of the Probate Assembly for action, including but not limited to, referral to the Council on Probate Judicial Conduct.

Table II-1 shows the number of judges who did not complete their annual training requirement from 2000 through 2004. Every year there are a number of judges who fail to comply with the continuing education requirements. Some are missing only an hour or so of credit. Others are carrying delinquent credits from the previous year. According to the Office of the Probate Administrator, judges are allowed to make up the missing credits in the following year. There are currently two judges who have deficiencies dating back more than one year.

Table II-1. Number of Judges Failing to Comply with Training Requirements					
<i>Type of Credit</i>	2000	2001	2002	2003	2004
5 hours “in- person” credit	8	1	3	2	2
15 hour general credit	-	-	-	-	-
Both 5 and 15 hour credit	5	8	4	7	4
Total	13	9	7	9	6
Source: Office of the Probate Court Administrator					

² The Probate Assembly is described beginning on page 21.

A judge may request a waiver of the requirements from the judicial education standards committee of the Probate Assembly. From 2000 to 2004, two judges received waivers due to medical reasons.

Citation. Each probate court has a “stand-by” judge assigned to the court in case of the judge’s absence or inability to perform duties. Stand-by judges are used for a short duration typically no more than a day. If judges anticipate either being absent from their courts for more than 72 hours or needing to disqualify themselves in certain cases, the probate court administrator must find other judges to fill in. The process of standing in for another judge is known as citation.

Whether a citation is needed for a vacation, an absence from the court, or a disqualification due to a conflict of interest, a written request for citation must be submitted to the Office of the Probate Administrator. Citation requests may be accepted over the phone in emergency situations. The “cited-in” judge handles hearings and must be available for emergencies that arise during the regular judge’s absence.

Probate judges may arrange or select substitute judges themselves except in matters of disqualification. The probate court administrator will appoint judges to be “cited-in” for cases where judges recuse themselves due to conflicts of interest. Judges must disqualify themselves from matters where the judges have an obvious or even possible conflict of interest with any of the parties or attorneys (either professionally or personally).

In general, “cited-in” judges are selected by geographic proximity to the probate district in need of a citation. However, a specific judge may be cited in if:

- the judge was cited in previously and has knowledge of the matter;
- a matter is brought in one court but jurisdiction lies in another court; or
- the judge has special expertise in a particular area.

Most courts do not pay a fee for a substitute judge preferring instead to have a working relationship to exchange services as needed. When payment is made, the rate cannot exceed \$50 for each hour or fraction thereof with a maximum of \$250 per day.

Statistics regarding citations have only been compiled since April 2003. Table II-2 provides a breakdown of citations by type.

Table II-2. Probate Judge Citations from April 2003 through August 16, 2005			
Reason for citation	April 2003 to March 2004	April 2004 to March 2005	April 2005 to Aug 16, 2005
Absence	241	276	140
Recusal	321	316	137
Total	562	592	277
Source: Office of the Probate Court Administrator			

Criminal background checks. In January 2004, the administrator's office was authorized access to state criminal records maintained by the Department of Public Safety. Any probate court may submit an information request to the administrator's office in cases involving termination of parental rights, immediate temporary custody, temporary custody, removal of guardian, temporary guardian, and visitation cases. Information requests may also be considered in other matters.

All requests are handled through the administrator's office via a dedicated fax machine. Due to the confidential nature of the requests, the administrator's office can only respond to courts that have their own fax machines. Responses may not be delivered to courts that share fax machines with other town offices. In those instances, responses are mailed or if urgent conveyed by telephone.

As of July 12, 2005, the administrator's office had processed 665 requests and conducted checks on 1,062 people. Of those investigated, 22 percent (235 people) had a criminal record. Prior to January 2004, criminal background checks were done by the Department of Children and Families.

Regulations and legislative proposals. State law requires the probate court administrator to issue regulations concerning auditing, accounting, statistical, billing, recording, filing and other court procedures. He is also authorized, but not required, to issue regulations regarding the availability of judges, court facilities, court personnel and records, hours of court operation, and telephone service.

The executive committee of the Probate Assembly can also propose regulations. Both the administrator and the executive committee must submit their proposed regulations to each other for approval. If either fails to approve the proposals, the regulations are submitted to a panel of three superior court judges appointed by the chief justice. The administrator may also recommend legislative changes relating to the probate courts.

Development of rules and distribution of practice book. The probate administrator is responsible for the uniform rules for the practice and procedures of the probate courts. In formulating these rules, the administrator must consult with the Probate Assembly and may meet with members of the bar and/or the public. These rules are recommended to the Connecticut Supreme Court justices. The administrator must develop, publish, and sell the probate practice book. All proceeds from probate practice book sales are deposited into the probate administration fund.

The office also developed and maintains the probate clerk's manual that explains applicable statutes and lists the procedures to be followed for each area of probate jurisdiction. The manual also contains a list of administrative forms that must be filed with the administrator's office, an explanation of the clerk's duties, and definitions.

Annual report. Every April, the administrator must submit an annual report on the activities of the Office of the Probate Administrator to the Judicial Department's chief court administrator. The chief court administrator may also request any other information he deems necessary.

Computerization. Computerization has been an issue in the probate court system. Only 104 of the 123 courts are computerized and linked to the administrator office by modem. Twenty-five courts have computers provided by their towns but are not connected to the administrator's office. Twenty-three courts do not have computers at all.

Most courts operate a computerized probate case management system provided by the Office of the Probate Administrator. The computer program tracks all opening and closing information for decedent's estates, conservatorships, trusts, and guardianships. It helps courts calculate fees and monitor invoices. It also captures select individual case information such as the names of attorneys and fiduciaries and information on jointly and solely owned property.

Every month the 75 computerized courts transfer the data to the administrator's office by modem; the remaining courts that are not linked by modem must submit the information by mail on a disk or in paper form. The information is used to produce monthly tickler reports and the yearly statistics published in the annual report.

The administrator's office installed the probate software in the larger courts in 2001. The former probate administrator did not want to incur the additional expense to have the smaller courts obtain computers and software. In his words:

“To permit courts to purchase this equipment with their own funds would necessarily result in smaller payments to the Probate Administration Fund. That I cannot accept, in light of the fiscal nightmare we will soon be experiencing. I would therefore encourage those judges who would like computers to request them from their municipalities.” (See memorandum in Appendix D.)

In April 2002, the Probate Assembly chair of the Committee to Study Court Computerization sought an agreement with the former court administrator concerning the use of the case management program by small and medium-sized courts. Pursuant to the agreement, the smaller courts would be allowed to use the probate court software with a team of volunteers to install software and provide training. In 2003, available updates for the installed programs were not provided to all the computerized courts prompting the Probate Assembly to adopt a resolution asking the administrator to do so. The current probate administrator has indicated that he intends to provide computer equipment and services to all courts by the end of 2005.

Children's probate court. The Office of the Probate Court Administrator initiated a number of special projects in the last few years. The largest initiative has been the New Haven regional children's probate court. The current probate court administrator proposed the concept of a regional children's court in response to a study by Casey Family Services. The study, requested by the administrator, examined the operations of the probate court system and its management of cases involving the guardianship of children. The study made several findings and recommendations including the creation of a small number of probate courts dedicated to children's matters.

Established by Public Act 04-159, the New Haven regional children's probate court is a collaboration of ten towns in the New Haven area, the Department of Children and Families,

Casey Family Services, and other local community providers.³ The court handles a number of children's matters including custody and removal of guardianship, termination of parental rights and adoption, paternity claims, the emancipation of minors, and voluntary admission to treatment programs run by DCF.

An administrative judge manages the day-to-day operations of the children's court. The probate administrator appointed a sitting probate judge as the administrative judge with the advice of the other participating judges. The administrative judge may continue to serve at the pleasure of the probate court administrator after his elected term expires. The judges from the ten towns share in the responsibilities of the court and conduct hearings on children's matters. Each probate judge whose district is located in the region had the choice to accept or decline participation in the program.

The court may accept children's matters transferred from any probate court within the region before July 1, 2007. There are two probate court workers with social work expertise to monitor cases, offer follow-up support, and refer families to appropriate services. The regional probate court staff works as liaisons between the court, DCF, attorneys, agencies, and families. Seven additional social workers, five from DCF and two from Casey, are available to the court as resources.

The probate administrator is authorized to access the probate administration fund for: necessary facility improvements; operating expenses; leasing and improving office space owned by participating cities and towns; and compensating the administrative judge subject to the chief court administrator's approval.

Other initiatives. In 2001, the probate court administrator began a collaborative effort with the Waterbury Probate Court and the state Department of Mental Health and Addiction Services (DMAS). The collaboration, known as Melissa's Project, coordinates health care and mental health services for individuals with psychiatric disabilities who are under conservatorship. The project is supervised by an attorney who is paid through the Office of the Probate Administrator. An additional purpose of the project is to provide additional information to the court regarding client and agency activity. Project staff reviews the client's medical records, maintains regular communication with service providers and community support groups, and attends all treatment planning meetings with the client. The probate court, DMHAS, and each conservator receive a monthly report detailing the project's work. In 2004, the project served 40 clients in the Waterbury, Danbury, and Torrington probate districts.

The probate administrator also initiated the Christopher Project at the Waterbury Probate Court in 1998. A social worker, paid by the probate administration fund, recruits and trains volunteer guardians ad litem.⁴ An independent project coordinator administers the project at the Waterbury Probate Court. The volunteer guardians ad litem, with court personnel, can make unannounced visits to a child's home and obtain the child's school and medical records. The

³ The 10 towns are Branford, East Haven, Hamden, Milford, North Branford, New Haven, North Haven, Orange, West Haven, and Woodbridge.

⁴ A guardian ad litem is a person appointed by the court to represent a minor's interest in a particular court proceeding. It is not a guardian of the person or estate.

findings are reported to the court. In 2004, there were 31 volunteers including retired teachers, nurses, and social workers.

In 2003, the New Haven probate court entered a partnership with the marriage and family therapy program at Southern Connecticut State University. The partnership allows students in the university's masters program to obtain experience working with families by volunteering as guardians ad litem. In 2004, there were 27 interns appointed as guardians ad litem.

Since 1997, the Kinship Fund has worked together with a small number of probate courts to provide grants to qualifying relatives appointed as guardians. The grants, limited to \$250 per child, assist in the cost of caring for the children. Currently, the program operates through the Children's Trust Fund and covers nine courts: Bridgeport, Hartford, Killingly, New Haven, New Haven Regional Children's Probate Court, New London, Norwich, Waterbury, and West Haven.

Regional coordinators. Connecticut's probate districts are divided into nine administrative regions, each with its own regional coordinator. The regional coordinator is a sitting probate judge appointed by the probate court administrator. The coordinators:

- conduct periodic meetings with courts in the region to discuss mutual problems;
- promote judges' attendance at Connecticut Probate Assembly meetings;
- inform court personnel in the region of pending legislation that may affect the probate courts; and
- facilitate communication between the region and the probate court administrator's office.

Regional meetings may also supplement the educational programs presented by the Probate Court Administrator's Office or the Connecticut Probate Assembly.

Connecticut Probate Assembly

All probate court judges, by virtue of their position, are members of the Probate Court Assembly. Established as an informal organization in 1883, the assembly was a forum for probate judges to discuss exceptional cases and review pending legislation. The assembly was formalized through legislation in 1941 and continues to operate under C.G.S. §45a-90, which sets out the assembly's responsibility for uniform practice and procedure in the probate courts, the administration of justice in the probate courts, and the assembly's ability to make recommendations to the probate court administrator concerning any of these matters.

The assembly meets at various times throughout the year to address matters of interest and concern to the probate courts. State law mandates an annual meeting be held in April at the Supreme Court room in Hartford. Other meetings are held in January, June, September, and November, as directed in the assembly's by-laws. The by-laws also authorize the election of officers and establish the system of standing and special committees that perform the assembly's work.

The assembly's elected officers include a President-Judge, First Vice-President Judge, Second Vice-President Judge, Executive Secretary, Recording Secretary, and Treasurer. The officers are elected at each annual meeting by a majority of the voting members in attendance. Officers serve a term of one year and are not compensated for their service to the assembly. The President-Judge position has a two-term limit. Traditionally, the prior First-Vice President Judge is nominated for the upcoming President-Judge position. In 2005, this tradition was challenged by an additional slate of candidates.

The assembly has a number of standing committees to fulfill the duties assigned by statute. When necessary, ad hoc committees are created. Table II-3 lists the current committees of the Probate Assembly.

Table II-3. Standing Committees of Connecticut Probate Assembly
Continuing Education Committee - Conducts educational programs for the probate judges.
Ethics Committee – Recommends revisions to the canons of ethics governing the conduct of probate judges.
Executive Committee - Supervises all of the standing committees and directs the assembly's work. It is composed of the current assembly officers, the immediate past president, the chairs of the standing committees, and nine voting members elected on a rotating basis, three per year, which each judge representing a different county.
Legislative Committee - Suggests legislative changes and monitors legislative proposals that would affect the courts.
Nominating Committee - Develops the slate of officers for Probate Assembly office and the executive committee.
Planning Committee - Examines the role and structure of the probate courts and plans for changes that may have an impact on the system.
Procedures Review Committee - Reviews all matters pertaining to probate court practice and procedure including the forms and procedures to implement new legislation.
Public Information Committee - Provides for the promotion of the probate courts and the probate court system.
Source: Connecticut Probate Assembly

The assembly's committee work is conducted by a combination of probate judges and clerks and often includes staff from the Office of the Probate Court Administrator. The probate administrator meets at various times during the year with the Connecticut Probate Assembly. By law, the executive committee of the Probate Assembly is authorized to review the probate administrator's operating budget and make comments, subject to further review by the probate administrator, before it is sent to the judicial department's chief court administrator. The Probate

Assembly also has involvement in the promulgation of regulations and the continuing education of probate judges.

The financial operations of the Probate Assembly are separate from the financial matters of the Office of Probate Court Administrator. Each probate judge must pay an annual fee to cover assembly expenses. The fee is based on the financial assessment each probate district paid to the probate court administration fund for the prior year. The financial activity of the Probate Assembly is audited by an independent certified public accountant on an annual basis.

Council on Probate Judicial Conduct

The Council on Probate Judicial Conduct was established in 1975 to receive and investigate complaints against probate judges. The council consists of five appointed members who serve for four-year terms. The appointments are statutorily outlined as follows: one probate judge elected by the judges of probate, one referee appointed by the chief justice from among the state referees who have retired from the supreme court or superior court, one attorney appointed by the governor, and two persons appointed by the governor who are not attorneys at law. The council members select the chairperson from among themselves.

The probate court administration fund pays for council expenses. Expenditures consist of per diem compensation, travel expenses paid to council members, and fees for outside professional services.

The council investigates complaints alleging violation of any law or canon of judicial ethics. The code of probate judicial conduct, established in 1976, contains eight canons of ethics by which probate judges are bound. The major provisions of the code of probate judicial conduct are outlined in Table II-4.

The first five canons are ethical principles patterned after the model code recommended by the American Bar Association. The sixth canon refers to financial documentation that the council may need to examine after a complaint has been filed. The seventh canon allows for the establishment of guidelines of conduct for judges under the code, and the eighth canon deals with judges' request for an advance ruling on a proposed specific activity under any of the canons. In addition to the code, there are other statutory provisions relating to the ethics of probate judges. These provisions cover the following areas:

- disqualification of a probate judge for an estate of a near relative;
- prohibition against appointing a corporation as fiduciary of which a probate judge is director or salaried officer;
- prohibition against the use of office or confidential information for financial gain;
- prohibition against a probate judge appearing as an attorney in a contested matter in any probate court; and
- prohibition of any partner or associate of the probate judge to practice law in the judge's court.

Table II-4. Provision Titles of the Code of Probate Judicial Conduct.	
Canon 1	A judge shall uphold the integrity and independence of the judiciary.
Canon 2	A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.
Canon 3	A judge shall perform the duties of judicial office impartially and diligently.
Canon 4	A judge shall so conduct all extra-judicial activities as to minimize the risk of conflict with judicial obligations.
Canon 5	A judge or judicial candidates shall refrain from inappropriate political activity.
Canon 6	Reports of compensation and income of judges of probate.
Canon 7	Guidelines of conduct.
Canon 8	Advance Rulings.
Source: Council on Probate Judicial Conduct	

In 2004, there were 21 complaints filed with the council. The council made a finding of no probable cause after a hearing in eight instances. Two cases had a finding of no probable cause with a private admonishment after a hearing. Two complaints were withdrawn; five were dismissed; and the remaining cases are pending. A description of the council process and statistical summary of the council's activities from 1994 to 2004 is provided in Appendix E.

Overview of Probate Court Financing

Probate courts are expected to be self-sustaining through the fees charged for their services. Fees are based on statutory fee schedules and flat entry fees that are waived in indigent cases. The costs associated with settling decedent's estates generate the majority of probate fees.

The fees generated by the court are intended to pay for the staff and administrative expenses of the probate court as well as the judge's compensation. After operating costs are covered, each court is charged a financial assessment to benefit the statewide probate system. Courts with insufficient income to meet their reasonable and necessary operating expenses may request a subsidy from the probate court administrator.

Connecticut Succession Tax

Historically, the statutory probate fees charged in decedent's estates have been computed primarily on the taxable assets reported on the Connecticut succession tax return. Until recently, the succession tax laws required returns to be filed with the probate court for all estates, whether or not any tax was due.

The legislature began a phase-out of the Connecticut succession tax in 1997. In theory, the phase-out was intended to make Connecticut more competitive with other states that have large retirement communities such as Florida. Many retired citizens were thought to have changed their residence in an effort to avoid the succession tax. This would result in a net tax loss to Connecticut for potential income tax and sales tax.

The Connecticut succession tax was to be phased out completely by 2008. By 2005, the majority of estates no longer paid succession taxes. Approximately 5 percent of the decedent's estates were subject to the succession tax. Over the years, there has been some debate over the impact that the elimination of the succession tax would have on probate revenues.

As part of the phase-out process, the legislature directed the probate administrator, in consultation with the commissioner of Department of Revenue Services, to develop a method and necessary forms for probate courts to determine the gross estate in order to compute their fees for settling estates. The administrator was to report these changes to the Judiciary committee and the Finance, Revenue and Bonding committee by January 1, 2004.

On December 30, 2003, the administrator wrote to the committee chairs indicating revenue reductions had not been experienced and requested that compliance with this reporting requirement be delayed until January 1, 2008. (Appendix F provides a copy of the administrator's letter.)

Although relatively few estates were subject to the succession tax, all decedent's estates containing real property, taxable or not, needed to make a succession tax filing to obtain a Certificate of No Tax. This certificate is recorded on the land records and facilitates marketable title of the decedent's real estate. Therefore, revenues did not drop significantly because probate courts could still charge a fee based on the amount of the estate shown on the return.

Uniform gift and estate tax. During the 2005 legislative session, the General Assembly eliminated the succession tax and established a uniform gift and estate tax. The tax applies to estates of more than \$2 million including taxable gifts made during the decedent's lifetime. As a result of these changes, the statutory probate fee for decedent's estates is now computed on the greater of: the gross estate for succession tax purposes, the inventory (a listing of the fair market value of the property as of the date of death), the gross estate for estate tax purposes, or the new Connecticut taxable estate. The new Connecticut taxable estate is the sum of:

- Connecticut taxable gifts made by the decedent during all calendar years beginning on or after January 1, 2005; **and**
- The decedent's gross estate less allowable deductions as computed for federal estate tax purposes (even if no federal estate tax return was required).

This sum includes the value of all the decedent's property at the time of death, including real property and tangible and intangible property. As a result, probate fees are now imposed on all non-probate assets, including jointly held bank accounts, individual retirement accounts, pensions, life insurance, and out-of-state property.

If the decedent's Connecticut taxable estate is more than \$2 million, the executor or administrator is required to file a Connecticut estate and gift tax return with the state Department of Revenue Services and a copy with the probate court having jurisdiction of the estate.

If the decedent's Connecticut taxable estate is \$2 million or less, the executor or administrator of the decedent's estate is required to file a Connecticut estate tax return for nontaxable estates with the probate court having jurisdiction of the estate. Non-taxable estates do not file returns with the Department of Revenue Services. The probate judge reviews the return and is responsible for issuing the Certificate of Opinion of No Tax. The probate court will also issue a certificate of release of estate tax lien where the amount of a decedent's Connecticut taxable estates is \$2 million or less. (A brief legislative history of the 2005 changes is provided in Appendix G.)

Probate fee structure. The costs of estate settlement proceedings are calculated using the fee schedule under C.G.S. § 45a-107. The cost is based on the size of the estate in the decedent's name alone and on the amount that may have been owned with others, such as survivorship property and other taxable transfers.

As seen in Table III-1, the maximum probate fee is \$12,500 for decedent's estates of \$4.75 million and over. Probate fees on estates of \$100,000 total \$465, plus the costs of notices

and other items. Probate fees on an estate of \$500,000 total \$1,865 plus costs. For an estate of \$1,000,000 the probate fees are \$3,115 plus costs.

Table III-1. Probate fee schedule for decedent's estates	
Basis for computation of costs:	Total Costs:
\$0 to \$500	\$25
\$501 to \$1,000	\$50
\$1,000 to \$10,000	\$50 plus 1% of all in excess of \$1,000
\$10,000 to \$500,000	\$150 plus .35% of all in excess of \$10,000
\$500,000 to \$4,754,000	\$1,865 plus .25% of all in excess of \$500,000
\$4,754,000 and over	\$12,500
Source: Connecticut General Statutes §45a-107	

A statutory fee schedule is also used in settling fiduciary's accounts including accounts of funds managed by conservators, guardians, and trustees. The fee is based on the value of the assets for which the fiduciary is accounting. The maximum fee of \$750 is charged for assets worth approximately \$375,000 and over (C.G.S. §45a-108).

There is a \$150 filing fee for most other matters under probate court jurisdiction. There are also miscellaneous costs associated with notices, service of process, recordings, and certified copies. A schedule of fees is provided in Appendix H.

During the committee's public hearing, several individuals testified about the impact the new uniform gift and estate tax has had on the calculation of probate fees because of its inclusion of property not previously included. Two examples cited in the public hearing testimony include:

Example One:

Husband and wife have jointly owned assets consisting of a home worth \$150,000; \$100,000 in life insurance; and \$6,500 in a joint checking account. The husband dies.

Although there is no estate tax due (under \$2 million), the wife must file estate tax return with the probate court and pay a probate fee of approximately \$427. Under the former calculation for decedent's estates which excludes life insurance, this fee would have been \$252.

Example Two:

Man dies with \$5 million in assets, all held in trust. Assets held in trust require no probate court services; the trustee handles everything. Tax return is filed with the Department of Revenue Services and a copy filed with the probate court which collects a fee of \$12,500.

The impact of the new calculation for decedent's estates was also a concern noted on many of the committee survey responses. Fifty-five percent of the judges responding to the committee survey indicated they felt the calculation of decedents' fees required revision. In

addition, 35 percent of the probate attorneys responding to the program review survey believe the current method of calculating probate fees for decedent's estates was unfair.

An informal survey of probate fees in 30 other states shows that 23 states charge a flat filing fee regardless of the size of the matter. Nine states apply a percentage or graduated fee. One state, Rhode Island, exempts the value of real estate. In addition, most states, including Connecticut, have additional charges for extra hearings, copies, or certificates. Of the 30 states surveyed, Connecticut was the only state that imposes probate fees on all non-probate assets.

The program review committee believes *the recent legislative changes regarding the calculation of probate fees for decedent estates may have resulted in an unintentional impact*. Given its recent passage, the full magnitude of these changes is not yet known. Program review believes the effect of the new calculation for decedent's estates should be reconsidered.

Another concern noted in the committee survey was the adequacy of the \$150 application or entry fee. Sixty-five percent of the 94 judges responding to the committee survey felt the probate fee structure (\$150 filing fee) needed revision. The majority of these judges believed the filing fees should be higher. Some respondents suggested raising the fee to what the superior court charges, which is \$225. However, 87 percent of the 239 probate attorneys responding to the program review survey indicated the probate court filing and processing fees were fair. As noted earlier, the probate entry fee was increased from \$100 to \$150 in 1997 to offset the anticipated loss of revenue from the phasing out of the succession tax. The program review committee believes another increase in light of the recent changes seems excessive.

Revenue and Expenses of Probate Courts

Each probate court must submit various reports regarding financial matters. Each court must submit an estimated assessment report by January 31 every year, which must include an estimate of annual net income and potential assessment due. On April 1, each court must report its actual receipts and expenses for the prior year. Each court is also required to file with the probate administrator on or before March 1 a statement showing actual gross receipts, itemized office costs, and net income for each calendar year.

Gross receipts. Total revenues received by the courts are gross receipts. Figure III-1 presents the gross receipts from 1999 to 2004. Court revenue has increased a total of 24 percent since 1999 with a variable annual increase. In 2004, the gross receipts ranged from \$4,343 (Thompson) to \$1,487,019 (Greenwich) with a statewide total of \$26,721,712.

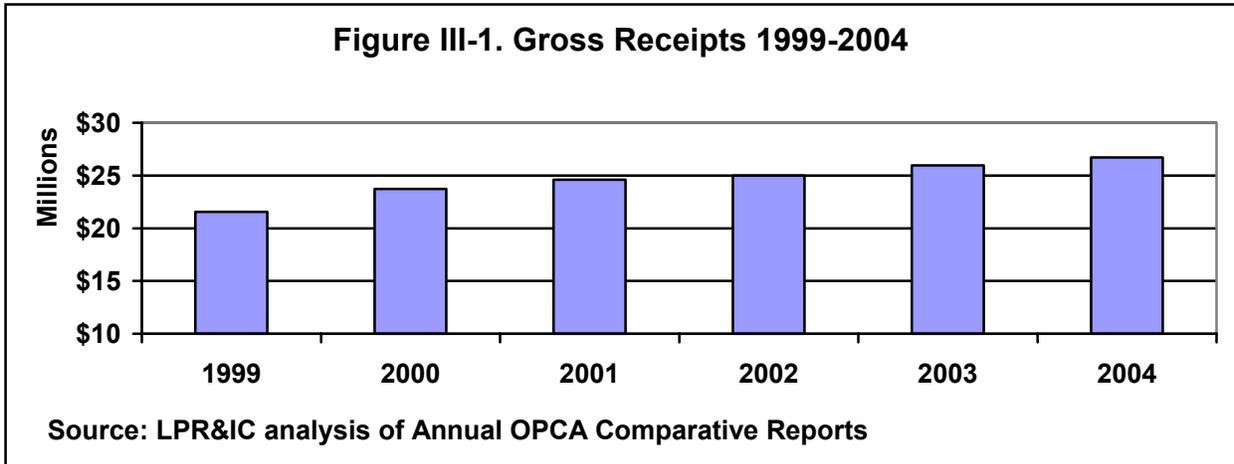
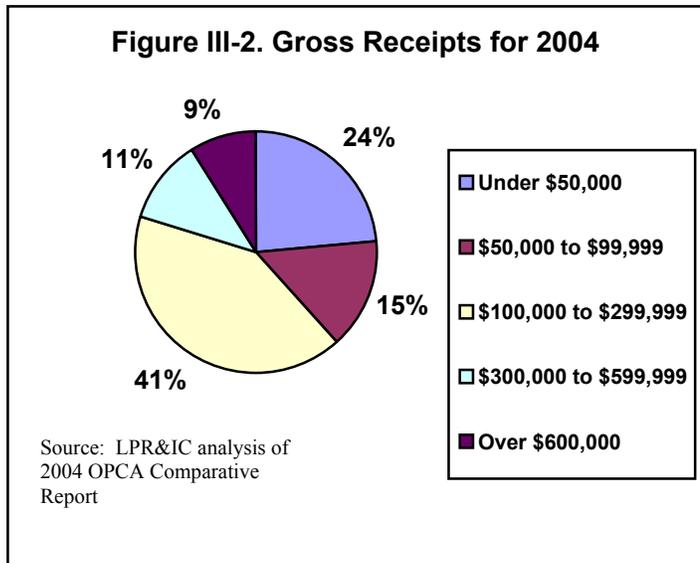


Figure III-2 shows the distribution of probate districts generating revenue in 2004. As the figure shows, 24 percent of the probate districts (29) individually generated less than \$50,000. Forty-one percent (51) had gross revenues between \$100,000 to just under \$300,000. Nine percent (11) generating more than \$600,000 with Stamford and Greenwich each having more than \$1 million in revenue.

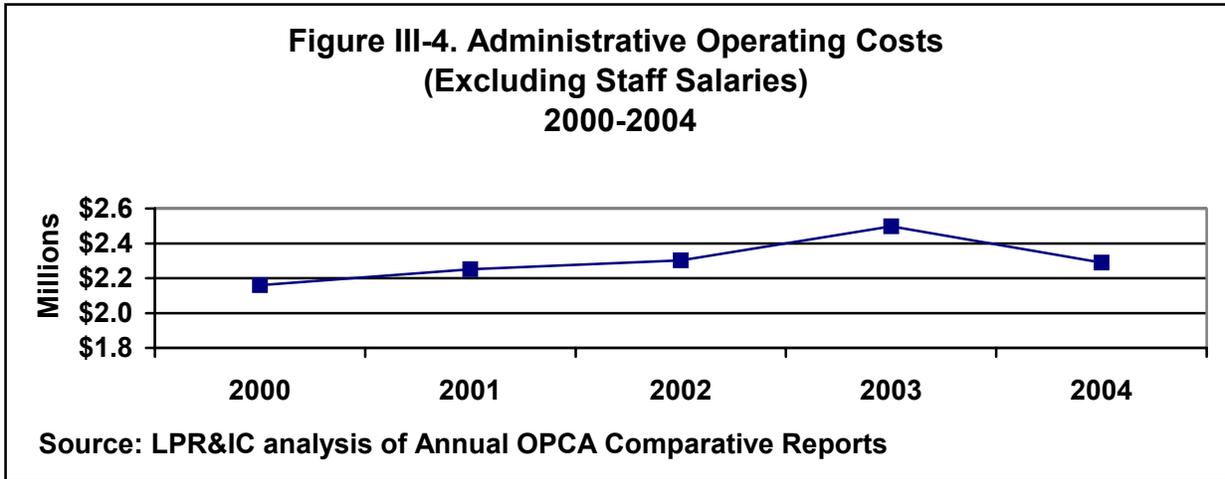


Because the majority of a court's revenue comes from fees based on the value of a decedent's estate, courts of similar population size may generate revenue in vastly different amounts.

For example, Bristol with a population of 60,541 had \$297,737 in gross receipts while Greenwich (population 61,784) had close to \$1.5 million in revenue. The district with the smallest population (Cornwall) had \$36,628 in gross receipts while Bridgeport with the largest population (140,104) generated \$639,160 in revenue.

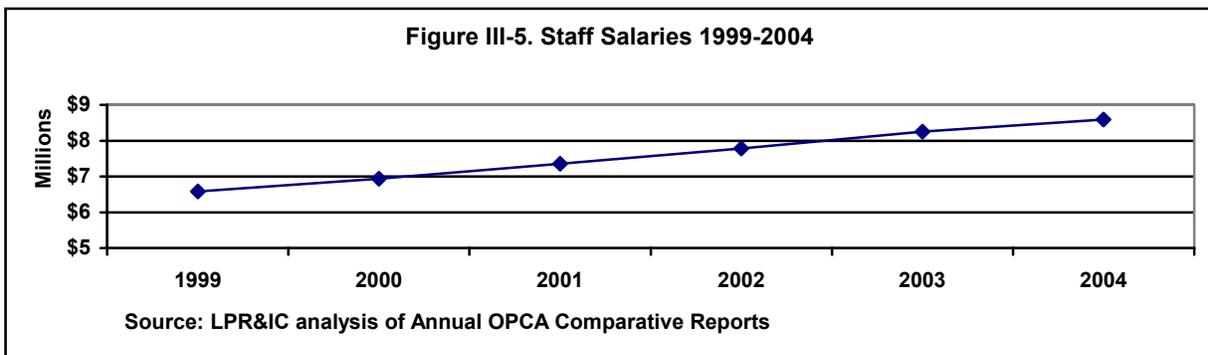
Administrative costs. Although the towns that are served by the probate district are statutorily required to provide adequate office facilities, they have no other financial obligation to the court. According to the Office of the Probate Court Administrator, some towns provide additional in-kind support such as computers and office equipment to their probate court. However, there is no tracking of these contributions. The court's operating costs and staff salaries are paid from gross receipts.

Figure III-4 presents the administrative costs for all district courts between 2000-2004. During this time period, administrative operating costs (excluding staff salaries discussed below) increased approximately 16 percent from 2000 to 2003 and dropped 8 percent in 2004.



In 2004, operating expenses (excluding staff salaries) statewide totaled \$2,289,621. There was a wide variance among the individual court's operating expenses. About half of the courts had operating expenses under \$10,000. Thirteen courts had operating expenses less than \$1,000. Ten courts had over \$60,000 in operating expenditures including Bridgeport with the highest operating costs (\$157,756).

Staff salaries. Each probate district judge sets the compensation for the court's staff. The judge must inform the probate administrator's office of any salary changes. Although the administrator's office may suggest rate increases, it is within the district judge's sole discretion. Figure III-5 shows total staff salaries (excluding judges' compensation) from 1999 to 2004. As the chart shows, total staff salaries have increased 30 percent over this time period with an annual average of 5 percent. In 2004, all staff salaries totaled \$8,592,535. Staff salaries for 2004 ranged from \$176 (Thompson) to \$526,478 (Hartford). Six courts have no salaried staff.



Assessments. Each court is assessed a contribution to the probate court administration fund. The assessment is determined by a statutory formula using a percentage of the annual net income from each court. (Net income is the amount remaining after operating costs and staff salaries are covered.) A reproduction of the statutory formula with an example is provided in Table III-2.

Table III-2. Example of the Calculation of Probate Fund Assessment				
Example –	Gross receipts		\$142,245	
	Less Operating expenses		6,305	
	Less Staff salaries		<u>46,916</u>	
	Net income		89,024	
	<u>If annual net income is:</u>	<u>Basic amount</u>	+	<u>Percentage</u> <u>Of Excess Over</u>
	0 to 18,750	1		0%
	18,750 to 25,000	1		5%
	25,000 to 31,250	314		10%
	31,250 to 37,500	938		15%
	37,500 to 43,750	1,876		25%
	43,750 to 50,000	3,439		35%
	50,000 to 62,500	5,625		50%
	62,500 to 93,750	11,878		75%
	93,750 to 125,000	35,313		80%
	125,000 to 187,510	60,318		85%
	187,510 to 312,500	113,445		95%
	312,500 to 849,960	232,192		97.5%
	849,960 and over	756,210		100%
<p>To calculate its assessment, a court would locate the range of its annual net income to determine its basic amount and add the corresponding excess percentage. Using the example, a court with net income of \$89,024 would be assessed a basic amount of \$11,878 plus 75 percent of the excess over \$62,500. In other words,</p> <p>\$11,878 + 75% (\$89,024-\$62,500) \$11,878 + 75% (\$26,524) \$11,878 + \$19,893 \$31,771 = Assessment</p>				
Source: LPR&IC				

Figure III-6 tracks assessments since 1999. In 2001, assessments had increased 22 percent to \$8.8 million from \$7.2 million in 1999. In 2002, assessments dropped five percent to \$8.4 million but gradually climbed to over \$9 million in 2004 for a ten percent increase. Overall, assessments increased 28 percent from 1999 to 2004.

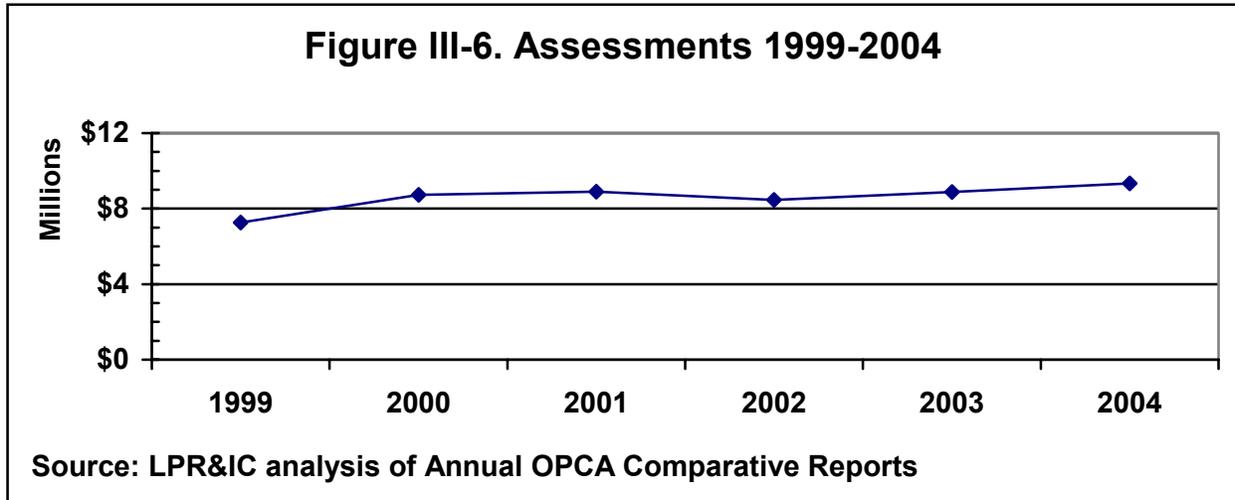
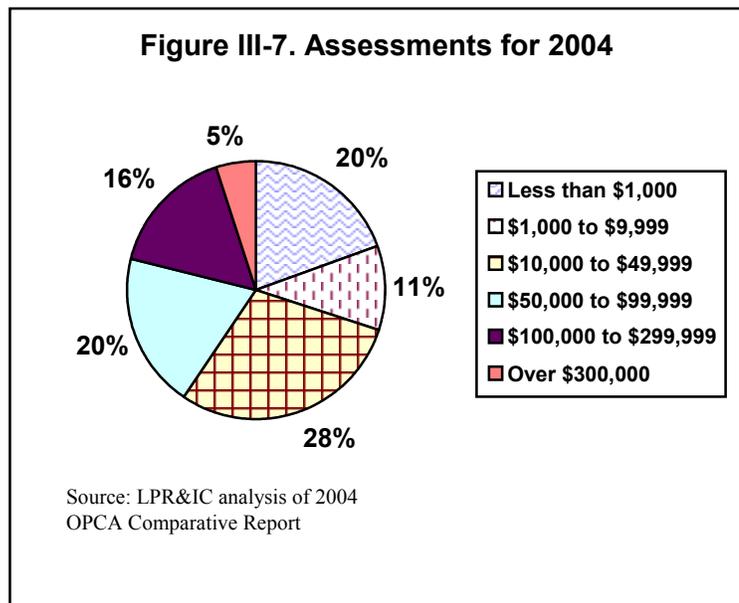


Figure III-7 illustrates the distribution of assessments in 2004. As the chart shows, twenty percent of the courts (24) had assessments less than \$1,000 with nine courts assessed \$1 and five with no assessment at all. Almost half of the courts were assessed between \$10,000 and \$100,000. Five percent, or six courts, were assessed \$300,000 or more, with Greenwich having the highest assessment of just over \$1 million.



As mentioned earlier, courts must report their estimated assessments by January 31. Estimated assessments may be amended at any time during the year when changes occur. If the assessment is more than \$100, it may be paid on a quarterly basis. If the estimate is less than 70 percent of the actual assessment, the administrator's office may assess a penalty of ten percent of the deficiency, unless the estimated payments are at least 95 percent of the actual assessment for the previous year.

Judge’s compensation. Subtracting the assessment from the net income provides the basis from which to start to calculate the probate judge’s compensation. The judge’s allowable compensation is subject to a statutory formula. The statute establishes minimum and maximum compensation rates. The formula uses “weighted workload” as part of the compensation calculation. (In general, the weighted workload is the total number of each probate court matter multiplied by a rating of 1 through 5 assigned by the administrator for the level of difficulty.)

The annual minimum compensation for a probate judge is the court’s weighted workload multiplied by \$15 or the judge’s three-year average compensation, whichever is higher. The annual maximum compensation of a probate judge is the court’s weighted workload multiplied by \$72 but cannot be more than 75 percent of the amount of salary of a superior court judge. In addition, probate judges of high volume courts, statutorily defined as districts having a population of 70,000 or more, may receive compensation equal to the court’s net income but not more than 75 percent of the salary of a superior court judge.

Therefore, the judge’s compensation amount is the lesser of: a) net income remaining after payment of operating costs and assessment; b) weighted workload multiplied by \$72; or c) the statutory cap of no more than 75% of the salary of a superior court judge (\$93,906). However, that compensation may not be lower than the weighted workload multiplied by \$15 or the three-year average of the judge’s compensation. An example of this compensation formula is presented in Table III-3.

Table III-3. Example of Calculating Judges’ Compensation	
Continuing with the example in Table III-2, the calculation of the judge’s compensation begins with subtracting the assessment from the net income.	
(\$89,024 net income - \$31,771 assessment = \$57,253 available compensation)	
The judge’s compensation, whose weighted workload is 953, is the lesser of:	
a) net income remaining after payment of operating costs and assessment	\$57,253
b) weighted workload (953) multiplied by \$72	\$68,616
c) 75% of the salary of a superior court judge	\$98,906
But cannot be less than:	
Weighted workload (953) multiplied by \$15	\$14,295
Three-year average compensation as probate judge	\$43,987
In other words, a judge’s compensation is the lowest of the maximum range but the highest of the minimum range. In the example above, the judge’s compensation would be \$57,253.	
Source: LPR&IC	

Figure III-8 shows the distribution of judges' compensation for 2004. The judges' compensation ranged from \$4,073 for the judge in Thompson to the statutory maximum allowable compensation of \$93,750. Over 60 percent of the judges (76) receive compensation between \$25,000 to just under \$75,000. Eleven percent (13) receive the maximum allowable salary. All but three (Greenwich, West Hartford, West Haven) of the thirteen judges are from high-volume courts. Fifteen percent (19) receive less than \$25,000 in compensation. Three receive less than \$10,000.

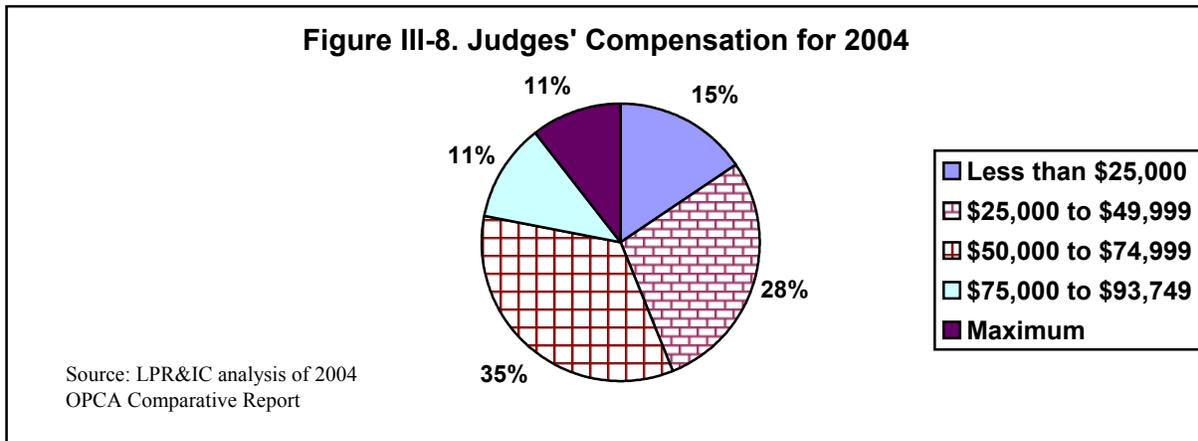
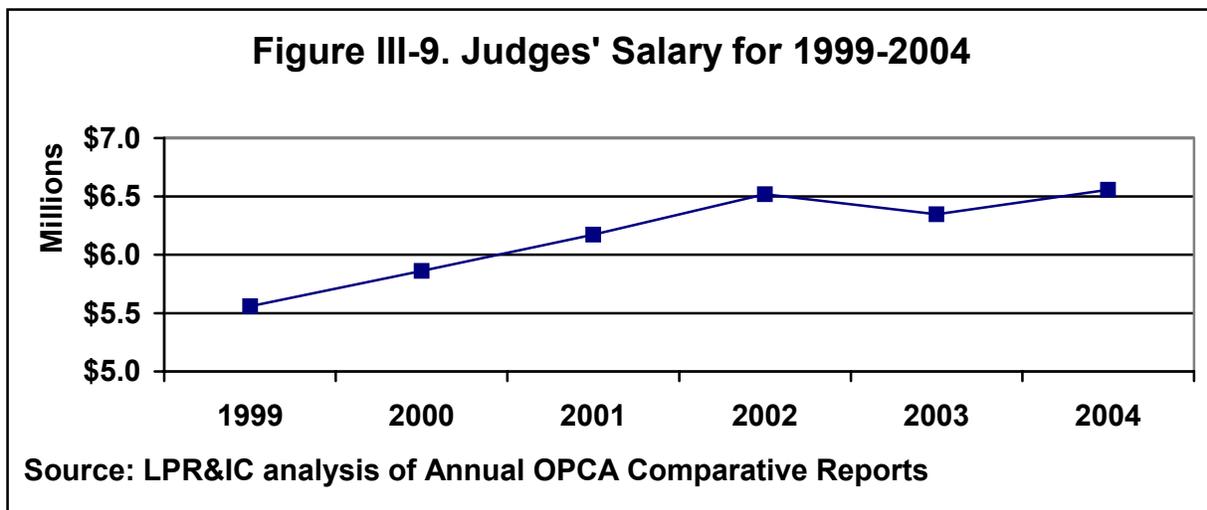


Figure III-9 demonstrates judges' salary for six years. Judges' compensation steadily increased a total of 17 percent from 1999 to 2002. A three percent decrease occurred in 2003 followed by another increase in 2004 of three percent. Overall, judges' salaries increased an overall 18 percent from 1999 to 2004.



Throughout the study, the committee often heard concerns about probate judges receiving substantial compensation for relatively few hours of work. It is important to note that probate judges are not compensated by the hours worked but rather by a combination of volume and type of matters they handle. The concept of the weighted workload was conceived in the late 1990s to address what was then viewed as disparities between workload and compensation among districts.

Program review examined judge compensation per unit of weighted workload. (Health insurance costs are not included in the judge's compensation.) The 123 districts were divided into groups of 20 in descending order of population. This resulted in six groups with the last group containing 23 districts. A list of these groups is provided in Appendix J. As shown in Table III-4, the system's total median weighted workload is 1,094 and the total median judges' compensation is \$55,076. Both the median weighted workload and median judges' compensation decrease as the court size decreases. However, the median judge's compensation per unit of weighted workload increases as the court size decreases.

Table III-4. Comparison of Weighted Workload and Judges' Compensation by Population Size.							
Group	1	2	3	4	5	6	TOTAL
Number of Courts	20	20	20	20	20	23	123
Population	1,635,192	812,126	458,086	294,402	173,428	87,269	3,460,503
Weighted Workload (WWL)	133,539 (51%)	58,447 (23%)	32,242 (12%)	17,466 (7%)	11,109 (4%)	6,872 (3%)	259,675
Median WWL	6,056	2,933	1,413	817	564	239	1,094
Judges Compensation	\$1,798,883 (27%)	\$1,342,222 (20%)	\$1,268,889 (19%)	\$1,021,986 (15%)	\$676,426 (10%)	\$493,622 (7%)	\$6,6618,256
Median Judges Compensation	\$93,750	\$69,000	\$63,041	\$51,277	\$31,899	\$18,936	\$55,076
Range of Judges Compensation per WWL unit	\$6.1-30.2	\$10.1-45.8	\$18.2-63.6	\$33.1-74.8	\$11-117.1	\$27.8-205.4	\$6.1 to 205.4
Median Judges Compensation per WWL unit	\$15	\$22	\$40	\$66	\$70	\$72	\$45
Source: LPR&IC analysis							

As the table shows, the median judges' compensation per weighted workload unit reflects the minimum and maximum allowable compensation of the statutory formula. *Although the judges' compensation was set by statutory formula to address disparities in workload, the present system still produces considerable variation among the individual judges' compensation.* For example, the Hartford probate judge received the maximum statutory compensation available to a high volume court (\$93,750) for his district's 2004 weighted workload of 15,386. Because of the statutory cap and the size of the weighted workload, Hartford has the lowest judge cost per weighted workload unit (\$6). Meanwhile, the Norfolk probate judge received \$32,249 in compensation for the court's 2004 weighted workload of 157 giving Norfolk the highest judge cost per unit of weighted workload (\$205).

Given the need to control system expenses and that the current statutory formula produces significant differences in judicial compensation from court to court, the program review committee recommends that **the Office of the Probate Court Administrator, in consultation with the executive committee of the Probate Assembly, shall obtain the services of an independent professional financial consultant to develop a mechanism for judicial compensation taking into account the health insurance and retirement benefits provided to judges under current law as well as the time and skills reasonably necessary to perform their judicial duties. A final report shall be submitted to the Chief Court Justice no later than September 1, 2006. Any changes requiring statutory revisions shall be proposed in the 2007 legislative session.**

Financial Viability

A major focus of the program review committee's study was to examine whether the current probate court structure is financially viable. For the purposes of this study, financial viability is defined as sufficient revenue to cover expenses. This chapter discusses and provides analysis on current and projected probate court finances.

How courts are financed. Each probate court manages its own finances and pays for its own operating costs.⁵ Probate courts are expected to be self-sustaining through the fees charged for their services. The probate courts receive their revenue from fees collected in matters under their jurisdiction (e.g., estates, conservatorships, commitments). Fees are based on statutory fee schedules and flat entry fees that are waived in indigent cases. The costs for settling decedent estates generate the majority of probate fees.

The fees generated by each court, known as gross receipts, are intended to pay for the staff and administrative expenses of the probate court as well as the judge's compensation. After these operating costs are covered, each court is charged a financial assessment paid into the Probate Administration Fund (PAF) to benefit the statewide probate system. A court with insufficient gross receipts to meet its reasonable and necessary operating expenses may request a subsidy from the probate court administrator. Certain operating expenses for the system such as health insurance for active and retired judges and staff and the costs associated with indigent cases are paid from the Probate Administration Fund. In addition, the fund is statutorily required to pay for a variety of expenditures for the operation of the Office of the Probate Court Administrator.

State law provides that monies of the General Fund may be drawn upon if the Probate Administration Fund is at any time insufficient to cover its charges. Any monies from the General Fund must be repaid when the Probate Administration Fund is solvent. To date, this has not occurred.

Previous Financial Projections

For a number of years, projections have been made of an impending financial crisis for the probate court system. In 1996, legislation was adopted to phase out Connecticut's succession tax to make the state more competitive. One of the predicted consequences was that when the tax was eliminated, taxpayers would no longer file these returns, thereby also eliminating the basis for the probate courts to generate substantial fee-based income. Anticipated probate revenue reductions were estimated at \$5 million to \$8 million, or as much as 25 percent of the income of the entire system.

⁵ Towns that are served by the probate district are statutorily required to provide adequate office facilities but they have no other financial obligation to the court. While some towns provide additional in-kind support such as computers and office equipment to their probate court, there is no tracking of these contributions.

In 1997, probate fees were increased in response to the expected shortage resulting from the succession tax elimination. However, the phase-out of the succession tax did not immediately result in reduced revenues, even though over 90 percent of people who previously would have paid succession tax no longer needed to. However, people continued to file tax returns with the probate courts because decedent's estates needed to clear title to real estate. As a result, large fees were generated for the courts securing a continued source of revenue to the probate system. At the same time, the 1997 probate fee increases provided system-wide surpluses. By 2003, the probate system had a surplus significant enough that the legislature took \$15 million from the Probate Administration Fund for the General Fund.

Since 2004, the financial projections from the Office of the Probate Court Administrator have been somewhat volatile. The OPCA October 2004 reorganization plan predicted a systemic deficit of \$579,000 in 2004 followed by a \$1.5 million deficit for 2005. In September 2005, this projection was revised to a \$500,000 surplus. A month later, the probate court administrator testified at a program review committee hearing that the surplus would more likely be over \$800,000.

This volatility, in part, is reportedly due to the different reporting schedules of probate finances. Individual court income and expense reports are compiled on a calendar year basis while the Probate Administration Fund financials are reported on a fiscal year basis. According to the probate court administrator, these figures change as the final financial audits of each court are completed.

At the program review committee's October 2005 public hearing, the Office of the Probate Court Administrator submitted its most recent financial projections for the probate court system. A copy of the original spread sheet is provided in Appendix I. The spreadsheet, combining both calendar and fiscal year information, contained a number of assumptions regarding expense increases. Closer examination of the spreadsheet revealed some minor mathematical errors and inconsistent application of assumptions. Therefore, program review prepared its own spreadsheet separating calendar and fiscal year data and adjusting the application of a few of the assumptions. The resulting analysis is provided below.

Current Probate Financial Condition

As noted above, funding for the probate court system is managed in a two-part process. First, each individual court manages the gross receipts it generates to pay for its operating expenses (staff salaries, office expenses, and judge's compensation) on a calendar year cycle. Second, the unspent gross receipts are sent to the Probate Administration Fund to cover a variety of system expenses on a fiscal year cycle. Consequently, the program review committee examined the revenue and expenditures of each separately.

Program review examined the amount of gross receipts generated by all 123 probate courts as a whole compared to the operating expenses of the courts. A summary of this information for calendar years 2000 to 2004, the last year for which there are actual audited figures, is presented in Table IV-1.

Table IV-1 also shows the PAF activity during FYs 2000-04. The PAF pays for health insurance costs for active and retired probate staff; costs associated with indigent cases; and “other PAF expenses” including Office of the Probate Court Administrator expenses as well as special projects (e.g., regional children’s court).

Table IV-1. Connecticut Probate Court System Finances (2000 through 2004)					
Calendar Year	2000	2001	2002	2003	2004
Gross Receipts	\$23,724,000	\$24,664,000	\$25,004,000	\$25,957,000	\$26,883,766
Court Expenses:					
Staff salaries	6,940,000	7,366,000	7,780,000	8,256,000	8,625,793
Judges Compensation	5,909,000	6,195,000	6,518,000	6,439,000	6,618,256
Other administrative court expenses	2,160,000	2,256,000	2,302,000	2,498,000	2,293,404
<i>Subtotal of Expenses</i>	15,009,000	15,817,000	16,600,000	17,193,000	17,537,453
Addition/Subtraction	\$8,715,000	\$8,847,000	\$8,404,000	\$8,764,000	\$9,346,313
PAF Activity	FY 00	FY 01	FY 02	FY 03	FY 04
Beginning PAF balance	17,198,560	21,290,560	25,988,110	14,533,362*	16,623,048
Incoming Receipts	9,587,000	10,536,550	10,195,252	9,860,856	10,138,162
Total Available PAF	\$26,785,560	\$31,827,110	\$36,183,362	\$24,394,218	\$26,761,210
PAF Expenses					
Health insurance (Active)	1,491,000	1,563,000	1,792,000	2,028,000	2,308,900
Health insurance (Retire)	979,000	991,000	1,137,000	1,369,000	1,704,662
Indigent costs	742,954	814,622	1,054,393	1,515,236	1,794,552
Other PAF expenses	2,282,046	2,470,378	2,666,607	2,858,934	2,895,784
Total PAF EXPENSES	\$5,495,000	\$5,839,000	\$6,650,000	\$7,771,170	\$8,703,898
Ending PAF Balance	\$21,290,560	\$25,988,110	\$29,533,362	\$16,623,048	\$18,057,312
Addition/Subtraction to PAF	\$4,092,000	\$4,697,550	\$3,545,252	\$2,089,686	\$1,434,264
*Transfer of \$15,000,000 Into General Fund					
Source: LPR&IC analysis					

As the table shows, *the 123 probate courts, to date, have collectively generated sufficient gross receipts to cover their operating expenses.* (Further analysis concerning each individual court’s ability to remain financially viable is provided later.) In addition, *the PAF has, at least through 2004, spent less than incoming receipts, allowing the balance in the fund to grow. Therefore, the probate court system at present is self-sustaining.*

Future Projections

Following this same format, the program review committee prepared its own projections using certain data and assumptions provided by the probate administrator as well as developing and adjusting others. As mentioned earlier, the financial statements for each individual court are based on calendar years. As such, the actual figures for 2005 are not available. Therefore, it was

necessary to make certain assumptions, based on available historical and current data, to project future financial data.

It is important to note that even a small change in assumptions may make a significant difference. For example, the program review committee used a conservative assumption of a 2 percent annual increase in gross receipts after FY 05. However, the growing demographic of aging Connecticut residents may impact the number of decedent estates and conservatorships the probate courts will handle in the future, making the actual increase in gross receipts much higher.

The program review assumptions are as follows:

For the calendar year analysis:

- gross receipts increase at a rate of 2 percent annually (same as OPCA);
- staff salaries increase at a rate of 5 percent annually (OPCA assumes 3 percent for FYs 05 and 06 then assumes 5 percent for FY 07 forward);
- other court expenses increase at a rate of 3 percent annually (same as OPCA); and
- judges' compensation increase at a rate of 5.5 percent annually (same as OPCA).

For the fiscal year analysis:

- Beginning in FY 06, incoming PAF receipts equal the average of the local courts' surplus from the two calendar years that are included in the fiscal year. This would take into account the six-month difference between the calendar year and the fiscal year.
- Interest income equals 2 percent of the prior year's ending fund balance. (OPCA uses 1 percent)
- Health insurance costs for active and retired staff increase 12 percent each annually. In FY 05, the health insurance cost for retirees contains a payment of \$477,285 for underpayment of prior years' health insurance. (same as OPCA)
- Indigent costs increase 5 percent annually after FY 05. Indigent costs increased substantially in FY 05 due to a recent reimbursement rate increase for lawyers and conservators representing indigent cases. (same as OPCA)
- Other PAF expenses, which include the operating expenses for the Office of the Probate Court Administrator, increase 3 percent annually. (OPCA assumes 5 percent)

Based on the program review assumptions, the 123 probate courts as a whole will continue to generate sufficient gross receipts to cover their basic operating costs through 2010. However, their growing expenses in the upcoming years will mean less income going into the Probate Administration Fund for other system costs. As a result, the combination of decreasing

revenue into PAF and growing expenses will likely produce financial problems for the fund by FY 2010.

Table IV-2. Connecticut Probate Court System Finances (2004 through 2010)							
Calendar Year	2004	2005	2006	2007	2008	2009	2010
Gross receipts	\$26,883,766	\$27,421,441	\$27,969,870	\$28,529,268	\$29,099,853	\$29,681,850	\$30,275,487
Court Expenses							
Staff salaries	8,625,793	9,057,083	9,509,937	9,985,434	10,484,705	11,008,941	11,559,388
Judges compensation	6,618,256	6,965,140	7,348,222	7,752,374	8,178,755	8,628,587	9,103,159
Other court expenses	2,293,404	2,362,206	2,433,072	2,506,064	2,581,246	2,658,684	2,738,444
<i>Subtotal of Expenses</i>	17,537,453	18,384,429	19,291,231	20,243,872	21,244,707	22,296,211	23,400,991
Surplus/(Deficit)	\$9,346,313	\$9,037,013	\$8,678,639	\$8,285,395	\$7,855,146	\$7,385,639	\$6,874,496
PAF Activity	FY 04	FY 05**	FY 06	FY 07	FY 08	FY 09	FY 10
Beginning PAF balance	16,623,048	18,057,312	18,932,779	16,650,861	13,071,150	8,045,796	1,412,259
Incoming receipts	10,138,162	11,685,335	8,857,826	8,482,017	8,070,271	7,620,392	7,130,067
Interest Income	*	386,883	378,656	333,017	261,423	160,916	28,245
Total Available PAF	\$26,761,210	\$30,129,530	\$28,169,260	\$25,465,896	\$21,402,844	\$15,827,104	\$8,570,571
PAF Expenses							
Health Ins. (Active)	2,308,900	2,616,279	2,930,232	3,281,860	3,675,684	4,116,766	4,610,778
Health Ins. (Retire)	1,704,662	2,555,813	2,327,951	2,607,305	2,920,182	3,270,604	3,663,076
Indigent costs	1,794,552	2,740,848	2,877,890	3,021,785	3,172,874	3,331,518	3,498,094
Other PAF expense	2,895,784	3,283,811	3,382,325	3,483,795	3,588,309	3,695,958	3,806,837
Total PAF EXPENSES	\$8,703,898	\$11,196,751	\$11,518,399	\$12,394,746	\$13,357,048	\$14,414,845	\$15,578,784
Ending PAF Balance	\$18,057,312	\$18,932,779	\$16,650,861	\$13,071,150	\$8,045,796	\$1,412,259	(\$7,008,213)
Difference between Beginning and Ending PAF balance	\$1,434,264	\$875,467	(\$2,281,918)	(\$3,579,711)	(\$5,025,355)	(\$6,633,537)	(\$8,420,472)
*Interest income is included in FY 04 incoming receipts. ** PAF activity figures for FY 05 are actual.							
Source: LPR&IC analysis							

The projections of the Office of the Probate Court Administrator, provided in Appendix I, also concluded there would be future financial problems for the Probate Administration Fund. However, the probate administrator's method of projection suggests the financial problems of the Probate Administration Fund will begin about a year sooner (FY 2009) than the program review estimates. OPCA predicts the Probate Administration Fund will have a deficit of \$6.2 million in FY 09 followed by a \$15.9 million deficit in 2010. The program review analysis projects the Probate Administration Fund will still be solvent in FY 09 but will experience a deficit of \$7 million in 2010. The difference appears to be due to the different treatment of the calendar/fiscal year information and application of assumptions.

Financial Condition of Individual Courts

As noted above, the probate courts collectively have been able to generate sufficient revenue to pay for their operating expenses, as well as contribute significantly to the PAF. In 2004, \$26.8 million in gross receipts were generated by the whole probate court system with operating costs for the individual 123 courts of \$17.5 million. This amount does not factor in health insurance costs of current staff and judges. Since 1996, the cost of each court's share of health insurance for judges and clerks has been totaled and shown as a business expense against the Probate Administration Fund. Following this practice, an examination of the 2004 annual gross receipts and operating costs of each district reveals there were three courts (Bridgeport, West Haven, and Norfolk) that did not generate sufficient revenue to cover their operating costs.

If health insurance costs were considered part of individual court operating expenses, there would be significantly more individual districts with total operating expenses exceeding their gross receipts. An examination of the individual courts' 2004 gross receipts and total operating costs including insurance costs is provided in Table IV-3. As the table shows, 74 courts generate sufficient gross receipts to absorb their own health insurance costs but 41 (33%) of the courts do not. In essence, those 41 courts are subsidized by the revenues of the remaining courts. The 41 courts include three high volume courts with populations of more than 70,000; 17 medium and small-sized courts with populations between 10,000 and 70,000; and 21 extra small courts with populations less than 10,000. Furthermore, there are eight additional courts that appear to be within 5 percent of not covering their operating costs.

Court Size	Gross receipts <u>can</u> absorb health insurance costs	Gross receipts <u>cannot</u> absorb health insurance cost	Within 5 percent	Total
High Volume (Populations over 70,000)	6	3	1	10
Medium (Population between 30,000 and 69,999)	24	3	2	29
Small (Population between 10,000 and 29,999)	27	14	4	45
Extra Small (Population less than 10,000)	17	21	1	39
Total	74	41	8	123

Source: LPR&IC analysis

The probate system became part of the state's health insurance plan in 1996. All probate court employees and judges were given the same medical benefits as state employees with the cost of providing this coverage added to PAF expenses. At that time, PAF was thought to be sufficient to cover the 100 percent of the basic premiums for probate judges and staff and 50 percent of the premium for dependents. Since that time, health insurance costs have increased for the general public including members of the state plan. If the state makes any changes to its plan, the probate system will also be affected by whatever the state implements. Nevertheless, *the health insurance costs at present are one factor impacting the stability of the probate fund.*

In summary, almost all probate courts are currently financially viable (i.e., able to cover their operating costs). Only three probate courts require financial assistance from the Probate Administration Fund. However, if the health insurance costs are considered part of the individual court's operating expenses, significantly more probate courts (at least 41) would be financially not viable. These courts are presently being subsidized by the other probate courts through the Probate Administration Fund.

Analysis of Financial Condition of Probate Courts by Population

The program review committee also examined the probate courts' financial situation by population size. As in Chapter III, the 123 districts were divided into groups of 20 in descending order of population. This resulted in six groups with the last group containing 23 districts. A list of these groups is provided in Appendix J.

The committee then compared the groups by total and percentage of gross receipts, and total costs, with and without health insurance. Table IV-4 provides the results of the analysis. In general, all the variables decrease as the size of the court decreases.

Table IV-4. Comparison of Finances of Probate Courts by Population Size							
	Group 1	Group 2	Group 3	Group 4	Group 5	Group 6	TOTAL
Combined Population	1,635,192	812,126	458,086	294,402	173,428	87,269	3,460,503
Number of Courts	20	20	20	20	20	23	123
Gross Receipts	\$12,391,208 (46%)	\$5,520,405 (21%)	\$4,296,491 (16%)	\$2,415,646 (9%)	\$1,334,044 (5%)	\$925,972 (3%)	\$26,883,766
Court Expenses							
Staff Salary	\$4,794,221 (56%)	\$1,777,684 (21%)	\$1,131,900 (13%)	\$543,464 (6%)	\$264,261 (3%)	\$114,263 (1%)	\$8,625,793
Judges' Compensation	\$1,798,883 (27%)	\$1,342,222 (20%)	\$1,268,889 (19%)	\$1,021,986 (15%)	\$676,426 (10%)	\$493,622 (7%)	\$6,6618,256
Other Court Expenses	\$1,207,451 (53%)	\$528,784 (23%)	\$252,144 (11%)	\$164,423 (7%)	\$71,076 (3%)	\$69,527 (3%)	\$2,293,404
Total Expense (without health insurance cost)	\$7,800,555 (45%)	\$3,648,689 (21%)	\$2,652,933 (15%)	\$1,729,873 (10%)	\$1,011,763 (6%)	\$677,412 (4%)	\$17,521,226
Health Insurance	\$810,095 (37%)	\$442,439 (20%)	\$325,901 (15%)	\$255,961 (12%)	\$192,677 (9%)	\$168,566 (8%)	\$2,181,801
Total Expense (including health insurance cost)	\$8,610,650 (44%)	\$4,091,129 (21%)	\$2,978,834 (15%)	\$1,985,833 (10%)	\$1,204,440 (6%)	\$845,978 (4%)	\$19,719,254
Assessment paid to PAF	\$4,662,412 (49%)	\$1,871,715 (20%)	\$1,643,556 (17%)	\$685,773 (7%)	\$322,281 (3%)	\$256,183 (3%)	\$9,346,313
Source: LPR&IC analysis							

Similar to the finding above, each group generates sufficient revenue to cover its expenses. However, the 80 largest courts (Groups 1-4) generate 92 percent of the gross receipts. The remaining 43 courts generate 8 percent of the gross receipts. In addition, the 80 largest courts (Groups 1-4) provide 93 percent of the assessments paid to the PAF, while the remaining two groups (43 courts) provide 6 percent of the assessments.

Another way to examine this financial information is to compare a court's expenditures to the output it produces. For probate courts, the commonly measured product is the weighted workload.⁶ The program review committee calculated the total cost per weighted workload unit for each individual court. (Total cost includes staff salaries, administrative costs, and judge's compensation -- health insurance is treated as included and not included.) The results, presented in Table IV-5, provide the range and median of each group.

Table IV-5. Comparison of Weighted Workload and Total Cost of Probate Court by Population Size.							
Group Size	1	2	3	4	5	6	TOTAL
Number of Courts	20	20	20	20	20	23	123
Population Size	1,635,192	812,126	458,086	294,402	173,428	87,269	3,460,503
Total Weighted Workload (WWL)	133,539 (51%)	58,447 (23%)	32,242 (12%)	17,466 (7%)	11,109 (4%)	6,872 (3%)	259,675
Insurance NOT included in Total Cost							
Total Cost per WWL unit Range	\$40.20-89.08	\$46.37-131.75	\$50.09-154.24	\$64.25-141.82	\$11.74-142.47	\$31.30-217.64	\$11.74-217.64
Median	\$58	\$57	\$79	\$105	\$93	\$96	\$82
Insurance included in Total Cost							
Total Cost Per WWL unit Range	\$45.16 - 100.45	\$54.76-148.39	\$58.68-163.91	\$64.25-171.78	\$27.39-190.42	\$31.30-290.62	\$27.39-290.62
Median	\$66	\$65	\$92	\$116	\$107	\$126	\$95
Source: LPR&IC analysis							

As the table shows, the weighted workload decreases as court size decreases. The 80 largest courts (Groups 1-4) have 93 percent of the weighted workload. The remaining 43 courts have 7 percent of the workload. Overall, the system's median cost per unit of weighted workload is \$82 when not factoring in health insurance costs and \$95 per unit of weighted workload when health insurance costs are added. The cost per weighted workload unit decreases as the court size increases.

In summary, when the probate courts are compared by size, the analysis finds that the 80 largest courts generate the largest percentage of gross receipt (92 percent); pay most of the financial assessments to the Probate Administration Fund (93 percent); and carry the majority

⁶ In general, the weighted workload is the total number of each probate court matter multiplied by a rating of 1 through 5 assigned by the administrator for the level of difficulty.

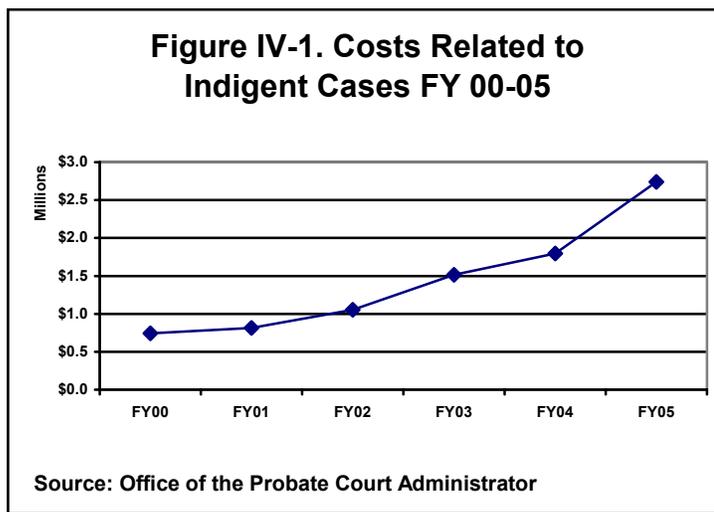
of the weighted workload (93 percent). At the same time, the median total cost per weighted workload unit of the 43 smallest probate courts is higher than the statewide median.

Probate Administration Fund (PAF) Expenditures

As mentioned earlier, the Probate Administration Fund is statutorily required to pay for a variety of expenditures for the operation of the Office of the Probate Court Administrator and for services provided to the probate district courts. (Additional historical trend information on revenue and expenditures of the Probate Administration Fund is provided in Appendix K.) In addition to health insurance costs, there are two other major expense categories for the fund: costs related to indigent cases and the operation of the Office of the Probate Court Administrator.

Costs related to indigent cases. The Probate Administration Fund pays attorneys who represent indigent persons in probate matters, reimburses courts for entry fees that are waived in indigent cases, provides payments to conservators appointed to indigent individuals, and covers other professional costs associated with these cases such as marshals and newspaper notices.

Figure IV-1 charts the costs for indigent cases since FY 00. The total cost for indigent cases has more than tripled since FY 00. During this time period, the amount of fee waivers has almost doubled while the costs for counsel fees and other professional services have experienced the greatest growth. In FY 05, the costs for indigent cases grew another \$1 million due in part to an increase in the reimbursement rate of counsel fees.



The responsibility for these payments was previously carried by the General Fund but was transferred to the Probate Administration Fund in 1996. State law still allows funds from the Judicial Department to be used to pay the costs for indigent services, but the probate fund must cover these expenses if there are no appropriated funds to the Judicial Department for this purpose. In 1999 and 2000, the General Fund provided \$500,000 for these costs. However, due to the large balance in the probate fund, the appropriation was eliminated completely in subsequent budgets.

The program review committee believes there should be reconsideration of this policy given the significant growth in this expense category. The financial burden of indigent cases is a statewide issue that should be addressed with general state funds through the Judicial Department rather than financed solely by the users of the probate system. While recent expenditures for indigent cases may provide some insight to projected increases, the future growth of these expenses is not known. Unlike staff compensation and related health insurance costs, the costs related to indigent cases are outside the control of the probate court judge and are

unpredictable. *The inclusion of indigent costs in the Probate Administration Fund, like health insurance costs, may eventually impact the fund's ability to remain self-sustaining.* Therefore, the program review committee recommends **the costs related to indigent cases shall be paid from the state's general revenues.**

Other PAF expenses. The Probate Administration Fund is also responsible for a variety of other expenses managed through the Office of the Probate Court Administrator. These expenses include the cost of operating OPCA, certain services for the individual courts such as computerization and educational seminars, and all expenses of the Council on Probate Judicial Conduct. Program review examined the operating budget of the Office of the Probate Court Administrator, separating the costs for services provided to the individual courts such as education seminars, subsidies, and costs related to the Council on Probate Judicial Conduct. Table IV-6 provides this analysis from FY 2000 to FY 2005.

As the table shows, *the total operating expenses for the Office of the Probate Court Administrator demonstrated a modest growth between FY 2000 and FY 2003 but increased substantially from FY 2003.* In FY 2004, the total operating expenses for the Office of the Probate Court Administrator increased 19 percent while a 15 percent increase occurred in FY 2005. Since FY 03, the areas with the most growth are staffing costs (including contractual employees), pilot programs, and other administrative expenses. A significant increase was also evident in the expenses related to services for the individual courts. Computerization for the individual courts and court operating subsidies experienced the most growth.

Table IV-6. Other Probate Administration Fund Expenses (FY 00 through FY 05)						
Expenses of the OPCA	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal services	\$737,297	\$773,069	\$831,582	\$836,541	\$917,798	\$992,809
Fringe benefits	\$305,293	\$331,621	\$374,076	\$358,687	\$434,910	\$535,165
Professional fees (Contractual)				\$54,265	\$108,402	\$186,790
Non-professional fees: temp help		\$3,852	\$6,603	\$31,089	\$10,788	\$6,275
Data processing (OPCA only)	\$388,074	\$328,713	\$302,164	\$223,702	\$229,417	\$201,265
Other administrative expenses*	\$251,011	\$244,281	\$274,114	\$273,895	\$237,409	\$348,317
Pilot programs		\$43,200	\$42,134	\$100,000	\$289,247	\$291,034
TOTAL OPERATING EXPENSES	\$1,681,675	\$1,724,736	\$1,830,673	\$1,878,179	\$2,227,971	\$2,561,655
<i>Percent Growth from the prior year</i>		<i>3%</i>	<i>6%</i>	<i>3%</i>	<i>19%</i>	<i>15%</i>
Services for Individual Courts						
Judges seminars & education	\$36,731	\$38,732	\$42,255	\$28,975	\$29,534	\$28,271
Council on Judicial Probate Conduct	\$34,208	\$53,083	\$58,756	\$58,891	\$63,441	\$58,571
Court subsidies	\$11,500	\$84,673	\$30,000	\$161,043	\$130,784	\$98,656
Computerization – courts	0	0	0	\$675,620	\$209,526	\$536,658
Total	\$82,439	\$176,488	\$131,011	\$924,529	\$433,285	\$722,156
<i>Percent Growth from the prior year</i>		<i>114%</i>	<i>(26%)</i>	<i>606%</i>	<i>(53%)</i>	<i>67%</i>
*Includes building maintenance, rental storage for probate records, furnishing, office equipment and supplies, and other office related functions.						
Source: LPR&IC analysis						

Use of contractual staff. In August 2005, the Office of the Probate Court Administrator had a staff of 16 permanent employees and 12 contractual workers. As of December 2005, the staff increased to 19 permanent employees and 18 contractual workers. The three new permanent employees include two attorneys in the legal division to replace the former chief of staff, and one administrative employee in the financial division. According to the probate administrator, the six additional contractual workers are part-time auditors to fill the position of the former financial administrator. As a result, there is almost an equal number of permanent and contractual staff.

Pilot programs. Another area within the category of other probate expenses that has experienced significant growth is pilot programs. In FY 01, there was one pilot program with a total of \$43,200 in expenses. In FY 05, there were two pilot programs with expenditures totaling \$291,034. The majority of these expenses are related to the children's regional probate court. The other smaller pilot project, Melissa's Project, is aimed at individuals with mental illness.

A recent evaluation report of the New Haven regional children's court found that the quality of comprehensive services provided by the regional children's court far exceeds the ability of local probate courts in case management, family involvement, addressing service needs, and linking families with community services.⁷ Support for this program is evident in that the legislature authorized expansion during the 2005 session before the evaluation report was issued. In addition, 79 percent of the 94 probate judges responding to the committee survey indicated that, in theory, the regional children court was a good model. However, the judges' opinions were evenly divided when asked whether revenues from the probate fees should be used to fund special projects such as the regional children's court or mental health projects.

Although the legislature directed the creation of six additional courts effective October 1, 2005, and initial steps have been taken to expand the program, no written implementation plan has yet been developed. In addition, there is no itemized budget of the anticipated costs. For example, the total expenditures for the New Haven regional children's probate court have been publicized as \$174,150 in FY 05.⁸ However, this figure does not reflect the costs of the four probate clerks and two probate court officers working for the children's court but paid by the probate district courts involved in the pilot program. In addition, the total expenses do not include the six social workers and a supervisor paid by the Department of Children and Families. As such, the actual cost for operating the New Haven regional children's court is substantially higher. Based on the children's court most recent budget, the total operating cost is \$536,578 (not including the DCF employees).

Given the potential impact these new additional courts may have on the probate administration fund, the program review committee recommends **not later than May 31, 2006, the Office of the Probate Court Administrator shall submit to the committees of cognizance of the General Assembly a written report on the experience of the regional children's probate court in New Haven.**

⁷ The evaluation report was prepared by staff of Casey Family Services, which also recommended the creation of the regional children's probate court. Concerns have been expressed to the program review committee about at least the perception of bias that arises from this relationship.

⁸ Annual Report of the New Haven Regional Children's Probate Court, 2005

The Office of Probate Court Administrator shall develop a written implementation plan, in consultation with the Department of Children and Families, identifying the possible probate districts that may be considered for additional children's probate courts pursuant to P.A. 05-225. The plan will describe the selection process for participating towns as well as a process for establishing the towns' desire to participate. The plan will also outline anticipated costs based on the experience of the regional children's probate courts already in place, describe the roles of those other agencies involved in the proposed court initiative such as the Department of Mental Health and Addiction Services and the Department of Children and Families, and indicate whether those agencies should be financially contributing to the operation of these proposed courts that are benefiting their clients. No additional regional children's probate courts shall be established beyond the two existing ones until the written implementation plan is submitted to the committees of cognizance of the General Assembly.

Conclusions

Based on the financial projections made through 2010, the program review committee finds that financial controls must be established to keep probate expenditures reasonable and to maintain a financially viable system. The committee recommendations made in Chapter III and so far in this chapter (e.g., changes in judicial compensation and responsibility of indigent costs transferred to the state's general revenues) will provide some fiscal stability. However, the program review committee believes fiscal accountability should be further strengthened. The need to curb probate expenses should include the expenditures of the administrator's office. Therefore, the program review committee recommends that **the growth in the Office of the Probate Court Administrator's operating budget shall be capped at the previous year's growth in the Probate Administration Fund. Further, the independent audit of the Probate Administration Fund shall be submitted to the legislative committees of cognizance.**

Survey of Probate Judges and Attorneys

As part of its study, the program review committee conducted two opinion surveys. One survey was sent to all 123 probate judges and another was mailed to a random sample of 500 attorneys who practice before the probate courts. Both groups were asked opinions on a number of items including court administration and operations. This chapter summarizes the survey results.

Probate Judge Survey

Ninety-four responses were received from the 123 probate judges for a 76 percent response rate. The breakdown of the respondents by court size is provided in Table V-1.

Size of Court	Number of courts	Number Responding	Response Rate
High Volume (Population over 70,000)	10	6	60%
Medium (Population between 30,000 and 69,999)	29	25	86%
Small (Population between 10,000 and 29,999)	45	36	80%
Extra Small (Population less than 10,000)	39	27	69%
Total	123	94	76%

Source: LPR&IC analysis

Of the 94 judges responding to the program review survey, 42 percent reported weekly contact with the Office of the Probate Court Administrator while another 38 percent indicated monthly contact with the office. Sixteen percent said they only had contact with the office a few times a year, while 3 percent stated they had daily contact.

Support services. Each probate judge was asked to rate the current performance of the Office of the Probate Court Administrator with respect to administrative support services. The results are presented in Table V-2. Overall, the judges seem to be generally satisfied with the support services provided by the probate administration staff. The weakest area involved computerization. Many of the judges also noted the recent loss of two long-time employees, the former chief of staff and financial director. Several judges indicated support services in the areas of legal and financial matters had since deteriorated.

Table V-2. Judges' Survey Responses Regarding Support Services				
Type of Support Service	Excellent	Good	Fair	Poor
Assistance with legal questions/research (N=94)	77%	12%	10%	2%
	89%		12%	
Development of transmittal memorandum or regulations (N=92)	43%	42%	9%	5%
	85%		14%	
Court visits (N=93)	40%	47%	9%	4%
	87%		13%	
Financial audits (N=89)	38%	48%	9%	4%
	86%		13%	
Assistance with financial questions (N=92)	32%	37%	23%	9%
	69%		32%	
Citation (N=93)	58%	33%	8%	1%
	91%		9%	
Continuing judicial education (N=92)	40%	41%	15%	3%
	81%		18%	
Computer support (N=92)	23%	23%	25%	29%
	46%		54%	
Source: LPR&IC survey analysis				

Another issue commonly mentioned by judges responding to the survey was the availability of probate forms. The administrator's office developed a CD containing the probate court forms and distributed them to all the courts. The administrator's office then discontinued the printing of manual forms. In October 2003, the office also developed a CD version that allowed forms to be filled electronically. This CD was distributed to a small number of courts for testing until the Probate Assembly objected and it was distributed to all courts in October 2004. In January 2005, the probate administrator elected not to renew the software license when it expired thereby leaving the courts without the technological advantage of not having to print out the form and then type the information.

Judges’ perception of the Office of the Probate Court Administrator. The committee survey asked the judges to rate their level of satisfaction with the Office of the Probate Court Administrator in a number of areas. The responses are tabulated in Table V-3.

Table V-3. Judges’ Survey Responses Regarding the Office of the Probate Court Administrator.				
	Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied
Represent your interests (N=94)	13%	30%	30%	28%
	43%		58%	
Explain changes in the probate court system (N=93)	20%	38%	23%	19%
	58%		42%	
Implement changes in the probate court system (N=94)	13%	39%	29%	20%
	52%		49%	
Inform you of important events and situations (N=94)	29%	31%	22%	18%
	60%		40%	
Advise you of changes in OPCA staff assignments and responsibilities (N=93)	9%	44%	20%	27%
	53%		47%	
Assist you in identifying and solving problems (N=94)	27%	36%	19%	18%
	63%		37%	
Prepare a budget for the probate court system (N=91)	13%	37%	26%	23%
	50%		49%	
Manage the expenses paid for by the probate administration fund (N=88)	15%	33%	26%	26%
	48%		52%	
Provide system-wide statistic/financial data (N=91)	15%	32%	27%	25%
	47%		52%	
Provide analysis of fund expenditures (N=90)	13%	33%	26%	28%
	46%		54%	
Source: LPR&IC survey analysis				

As the table shows, the levels of satisfaction and dissatisfaction are closely divided. At least half of the judges indicated being satisfied with OPCA’s ability to assist the courts in identifying and solving problems (63 percent), inform judges of important events and situations (60 percent), explain changes in the probate system (58 percent), advise the courts of changes in OPCA staff assignments and responsibilities (53 percent), implement changes in the probate system (52 percent), and prepare a budget for the probate court system (50 percent).

However, more than half of the judges were dissatisfied with OPCA’s ability to represent their interests (58 percent), provide system-wide data (52 percent), provide analysis of fund expenditures (54 percent), and manage the expenses paid for by the probate administration fund (54 percent). When the responses were examined by court size, the dissatisfied respondents were from primarily small and extra small courts.

Probate Attorney Survey

The program review committee mailed 500 surveys to a random sample of attorneys who practice in Connecticut probate courts and received 245 responses for a 49 percent response rate. A majority of the attorneys indicated that their practice includes estates (87 percent) and conservatorships (71 percent). Trusts and guardianships accounted for 45 percent and 44 percent respectively. Twenty-nine percent indicated they handle children’s matters.

The probate attorneys were asked about their experience with the Connecticut probate courts and to rate the courts’ performance. Fifty-one percent of the attorneys reported having weekly contact with the probate courts. Twenty-three percent said they had monthly contact, while 13 percent stated they had daily contact. Thirteen percent indicated they only had contact a few times a year.

Seventy-three percent of the attorneys reported having experience with more than three Connecticut probate courts. Twenty-three stated they had experience with two or three courts, while 4 percent reported their probate experience was with one court.

Perception of the Connecticut probate courts. The survey asked the attorneys for opinions on a number of areas including their general perception of the Connecticut probate courts. The results, provided in Table V-4, show that the majority of probate attorneys have a positive opinion regarding the Connecticut probate courts. High ratings were given with respect to the simplicity, fairness, and integrity of the probate process as well as to the objectivity of the judges.

Table V-4. Attorney Survey Responses Regarding Perception of the Probate Courts				
	Excellent	Good	Fair	Poor
Simplicity of its process (N=244)	48%	38%	10%	5%
	86%		15%	
Fairness of its process (N=244)	56%	36%	7%	2%
	92%		9%	
Integrity of its process (N=243)	63%	29%	6%	2%
	92%		8%	
Objectivity of the judges (N=242)	61%	29%	8%	2%
	90%		10%	
Source: LPR&IC survey analysis				

Performance ratings of the probate courts. The probate attorneys were asked to rate the performance of the probate courts based on their overall experience. As Table V-5 shows, the probate attorneys gave high ratings to the probate courts in the quality of staff assistance, length of time to resolve matters, the judge’s knowledge of the law and procedure, and the judges’ demeanor and conduct. The accessibility of the courts was one area the attorneys rated slightly lower.

Overall Experience	Excellent	Good	Fair	Poor
Quality of staff assistance (N=242)	61%	32%	7%	0%
	93%		7%	
Accessibility of court hours (N=242)	34%	48%	16%	2%
	82%		18%	
Length of time to resolve matter (N=242)	38%	50%	9%	3%
	88%		12%	
Judge's knowledge of the law and procedure (N=241)	54%	38%	7%	1%
	92%		8%	
Judge's demeanor/conduct (N=242)	64%	30%	6%	0%
	94%		6%	

Source: LPR&IC survey analysis

In addition to asking about their overall experience, the program review survey also asked the probate attorneys who dealt with more than one Connecticut probate court if they had found any differences among the courts. Fifty-seven percent of the attorneys (132) indicated they did experience differences. Table V-6 lists the most frequently cited differences among the courts.

Differences Among Courts	NUMBER (N=132)
Quality of staff assistance	45 (34%)
Judge's knowledge of the law and procedure	43 (33%)
Length of time to resolve matter	37 (28%)
Inconsistent practices	37 (28%)
Accessibility of court hours	31 (24%)
Judge's demeanor/conduct	26 (20%)

Source: LPR&IC survey analysis

While no difference was cited by more than 34 percent of the responding lawyers, the two top differences were the quality of the probate staff assistance and the judge's knowledge of the law and procedure. Other differences included the length of time to resolve matters, inconsistent practices, and the accessibility of court hours. The judge's demeanor and conduct was also mentioned as a difference among the courts.

Written Survey Comments

Many of the probate judges and attorneys provided additional written comments to their survey responses. Written comments were made on a broad range of topics. A summary of the common themes for each group is listed in Appendix A.

In general, many of the respondents, both judges and attorneys, felt there were aspects of the probate system worth conserving. In their written comments, several of the probate attorneys mentioned that the current probate courts provide a valuable and immeasurable community service. Others noted the informal nature of the system as a benefit. The courts were generally viewed as convenient and user-friendly.

The probate judges also mentioned positive features of the system in their written comments. Twenty-five percent of the judges alluded to the unquantifiable service the present system provides each community particularly in knowing its residents. Twenty-seven percent of the judges found the court's informality and user-friendly format to be important.

Findings and Recommendations

The following chapter provides a discussion of various aspects of the management of the probate courts and specific activities of the Office of the Probate Court Administrator. Connecticut General Statutes §45a-77 sets out the broad authority of the chief probate court administrator’s position to “attend any matters which the probate court administrator deems necessary for the efficient operation of courts of probate and for the expeditious dispatch and proper conduct of business of those courts.”

OPCA Regulatory Authority

In the 1970s, the Office of the Probate Court Administrator was given the authority to establish regulations concerning auditing, accounting, statistical, billing, recording, filing, and other court procedures, which are still in place. As part of its financial auditing role, OPCA administratively can disallow deductions of operating expenses that are deemed not to be ordinary and necessary.

The Office of the Probate Court Administrator may also adopt binding regulations regarding the hours of court operation, availability of judges, court facilities, and court personnel. To date, regulations on these topics have not been adopted.

Hours of court operation. The hours of operation for the probate courts vary widely. As seen in Table VI-1, the operating hours for the probate courts range from two to 42.5 hours a week. The median operating hours decrease as the court size decreases and range from a median of 40 hours a week for the largest courts to 9 hours a week for the smallest. It should be noted that some judges have indicated to the committee that they are available 24 hours a day for emergencies, and some courts advertise availability by appointment.

Group	1	2	3	4	5	6
Number of Courts	20	20	20	20	20	23
Population	1,635,192	812,126	458,086	294,402	173,428	87,269
Range of operating hours (2-42.5)	35-42.5	16.5-42.5	16.5-40	8-35	6-30.5	2-25.5
Median operating hours	40	35	32	20	19	9
Source: LPR&IC analysis						

An examination of the courts’ operating hours by county is shown in Table VI-2. Five of the eight probate counties have a median of 20 or more operating hours. Three counties (Windham, Litchfield, and Tolland) have a median of less than 20 hours.

COUNTY	Fairfield	Hartford	New Haven	New London	Middlesex	Tolland	Litchfield	Windham
Number of Courts	18	24	21	14	12	6	17	11
Range of operating hours (2-42.5)	(12-41.5)	(9-42.5)	(9-42.5)	(2-37.5)	(9-40)	(10-39)	(6-36.5)	(2-35)
Median operating hours	37.5	35	32.5	21.5	20	17.5	15	12

Source: LPR&IC analysis

As reported in Chapter V, one area the probate attorneys rated somewhat lower in the committee survey was the overall accessibility of the courts. It was also one of the major differences noted among the courts and a common theme in the written survey comments. The program review committee recommends that **the Office of the Probate Court Administrator shall submit to the Probate Court Assembly for approval minimum standards regarding hours of operation and staffing. All probate courts shall be open pursuant to these standards, and staffing standards should include consideration of necessary vacation time, sick time, and personal days. Enforcement of these standards shall be administered by the Office of the Probate Court Administrator.**

Court personnel. Probate judges have discretion in the selection and compensation of court staff as well as the hours worked by their employees. Probate court employees are not state employees and serve at the pleasure of the judge. State law requires each probate judge to appoint a clerk to his or her probate court and allows the appointment of one or more assistant clerks. Other than this statutory provision, there are no guidelines or regulations to address court personnel issues such as compensation levels or training, even though OPCA has the authority to do so.

Staff compensation. The last time OPCA compiled data about probate court staff compensation rates was in 2003. Based on this information, program review determined the reported hourly rate for probate clerks (not considering length of service) in 2003 ranged from a low of \$7.51 to a high of \$34.94 an hour. This variation was also present in the other two staff positions of attorney-clerk and assistant clerk. Table VI-3 shows the variation in pay ranges.

The issue of inequities in court staff salaries was frequently mentioned in the probate judges' survey responses. Seventy-five percent of the judges responding to the committee survey indicated they believed the probate staff salary structure needed revision. The majority of these judges stated that minimum standards or guidelines were needed to ensure equity among staff compensation.

County	Title	Number	Low	High
Fairfield	Clerk	16	15.00	34.94
	Attorney – Clerk	4	19.46	28.21
	Assistant – Clerk	63	10.00	32.56
Hartford	Clerk	21	14.29	28.00
	Attorney – Clerk	4	22.39	25.71
	Assistant – Clerk	62	10.00	20.64
Litchfield	Clerk	13	12.00	22.26
	Attorney – Clerk	0		
	Assistant – Clerk	9	12.00	15.00
Middlesex	Clerk	10	9.00	23.19
	Attorney – Clerk	0		
	Assistant – Clerk	7	12.00	21.43
New Haven	Clerk	20	7.51	28.43
	Attorney – Clerk	3	23.63	37.08
	Assistant – Clerk	50	10.00	23.00
New London	Clerk	12	8.10	21.23
	Attorney – Clerk	0		
	Assistant – Clerk	11	9.00	21.00
Tolland	Clerk	6	12.00	17.90
	Attorney – Clerk	0		
	Assistant – Clerk	7	12.00	14.07
Windham	Clerk	4	13.00	15.00
	Attorney – Clerk	0		
	Assistant – Clerk	1	9.00	9.00
*Length of service is not available.				
Source: Office of the Probate Court Administrator				

The program review committee agrees that an establishment of salary ranges for all probate staff would be more equitable. As elected officials, the probate judges should retain direct control of their employees, including the ability to hire and fire staff members. The compensation of those staff members, however, should be based on salary ranges established by uniform guidelines or regulation. Beyond the question of fairness, these standards could assist in managing costs. Therefore, the program review committee recommends **no later than January 1, 2007, the Office of the Probate Court Administrator shall develop and submit to the Probate Court Assembly for approval salary standards for the various probate staff positions.**

Clerks' training program. The probate attorneys responding to the program review survey also noted the quality of staff assistance as a major difference among the courts. As mentioned in an earlier chapter, probate clerks are not mandated to receive any specific training. Their work is guided by the Probate Clerk's Manual published by the probate administrator's office. Many of the clerks are members of the Connecticut Association of Probate Clerks, which sometimes provides educational presentations at its meetings.

Given the survey responses regarding inconsistent practices and differences in the quality of staff assistance, the committee recommends **the Office of the Probate Court Administrator, in conjunction with the Connecticut Association of Probate Clerks, shall develop a mandatory training program for probate clerks no later than September 1, 2006. This training should insure that consistent standards be developed and implemented. Probate clerks should be given paid time for their participation in continuing education and the cost of the training be covered by the probate court.**

Other provisions. Although regulations have not been adopted in a number of areas, there are other provisions in place that have not been enforced by the Office of the Probate Court Administrator. Two examples are the adequacy of court facilities and the number of probate staff.

Adequate court facilities. State law requires, at a minimum, that each probate court facility must include a room for the judge to conduct judicial proceedings in private, a separate room for court staff, appropriate furnishings, access to a larger hearing room, use of copiers, microfilming, telephone service and other related supplies. State law also requires each probate judge to keep the records and files of the probate court in a fire-resistant safe or vault in office space provided by the town or towns comprising the probate district. Currently, a majority of towns provide office space for the probate courts in their town halls.

Based on the most recent reports of court visits conducted by staff of the Office of the Probate Court Administrator, 29 courts are deemed to have inadequate facilities. Pursuant to state law, the probate administrator may take action against any districts in non-compliance with the minimum standards requirement for court facilities. The probate administrator may submit a report to the legislature's judiciary committee with a recommendation that the probate court be abolished as a separate district and be consolidated with a contiguous district where suitable court facilities can be provided. If the administrator believes abolishment is not in the public interest, he may seek enforcement of the requirements for the provisions of suitable court facilities through legal action in the superior court. To date, the probate administrator has not taken formal action against any court with inadequate facilities.

Based on the court visit reports and written comments submitted in the program review surveys, suitability of the facilities and other resources available to probate courts fluctuates in different parts of the state. Adherence to minimum standards for adequate facilities is important. The users of the probate courts should be able to discuss their personal, private matters with the judge and court staff with an expectation of privacy and confidentiality. The program review committee acknowledges that this may be a hard economic time for enforcement of an unfunded mandate. Nevertheless, minimum standards must be enforced to retain the integrity of the court

functions. Thus, the program review committee recommends **the Office of the Probate Court Administrator must pursue all available enforcement options to ensure compliance with statutory mandates.**

Authority of OPCA. The probate judge survey asked judges about any shortcomings in the authority of the position of the probate court administrator. Sixty-four percent of the judges responding indicated they believed shortcomings exist; 36 percent did not. When asked to explain what they viewed as shortcomings, the responses varied considerably. Twenty-two percent of the judges stated they believed stronger authority was needed by the probate court administrator to provide oversight and enforcement in the probate system. Eight percent of the judges believed the administrator's authority was too broad. Ten percent of the judges felt the Office of the Probate Court Administrator exceeded its existing authority.

In addition to the provisions discussed above, the probate court administrator is authorized to make whatever additional inquiries are deemed appropriate to ascertain whether the business of the court has been conducted in accordance with law, rules of the courts of probate, and the canons of judicial ethics. In theory, the probate administrator may refer any violations of these provisions to the Council on Probate Judicial Conduct to discipline judges found to violate the rules. However, given that probate judges are elected officials, there is limited operational accountability short of impeachment. Currently, when the Office of the Probate Court Administrator notes deficiencies in the annual evaluation of probate courts or complaints are received, the probate administrator tries to address the problems informally with the judges.

The program review committee agrees that the administrator's enforcement authority is somewhat limited by the fact that probate judges are elected officials. A different enforcement mechanism may be necessary if non-compliance does not rise to the level for referral to the Council on Probate Judicial Conduct. This underscores the need for regulations concerning the availability of judges, court facilities, court personnel and records, or hours of court operation. The program review committee believes the establishment of regulations will provide a firm standard by which accountability can be measured. Non-compliance or disregard for established regulations would provide more substance to potential referrals to the council. For matters not subject to regulation, the program review committee recommends that **the Office of the Probate Court Administrator, in consultation with the Probate Assembly, should examine the issue of enforcement authority for situations that do not rise to the level of formal referral to the Council on Probate Judicial Conduct. The review should take into consideration but not limit itself to monetary sanctions. The Office of the Probate Court Administrator must prepare and submit a formal report with any recommended changes to the General Assembly's committees of cognizance and the Chief Justice no later than September 1, 2006.**

Judicial training and continuing education. In addition to their mandatory initial training, every year probate judges must complete a minimum of 15 credit hours of approved judicial education. Judges may satisfy some credits with attendance at regional meetings that include probate administration-sponsored programs on basic probate procedures. Judges may also receive credit for presenting seminars and other instructional materials related to probate

law and procedures upon approval of the judicial education standards committee of the Probate Assembly.

Each judge must submit to the probate court administrator an annual statement of the number of hours of judicial education programs attended during the reporting period. Any judge failing to comply with these requirements is referred to the executive committee of the Probate Assembly for action, including but not limited to, referral to the Council on Probate Judicial Conduct.

As discussed in an earlier chapter, every year there are a number of judges who fail to comply with the continuing education requirements. Some are missing only an hour or so of credit. Others are carrying delinquent credits from the previous year. According to the Office of the Probate Court Administrator, judges are allowed to make up the missing credits in the following year.

According to the probate attorneys responding to the program review survey, the second major difference among the courts is the judge's knowledge of the law and procedure. Given the public hearing testimony and survey comments received by the program review committee regarding inconsistent policies and practices among courts, the program review committee recommends that **the Office of the Probate Court Administrator shall enforce the continuing education credit requirement for judges and discontinue the allowance of credit for presentations to the general public.**

Training for newly elected judges. Newly elected probate judges are required to complete a training program developed by the Office of the Probate Court Administrator. The training must be completed prior to the judge assuming office. At minimum, the training curriculum is statutorily required to address the rules of judicial conduct and ethics as well as the operation of the probate court and resources available to judges. A new judge must also receive training during his or her first six months in office in these areas:

- civil procedure including constitutional issues, due process, and evidentiary considerations;
- property law with conveyance and title considerations;
- wills and trusts; and
- family law.

Seventy-eight percent of the judges responding to the program review survey stated they believed the training they received during the first six months as a probate judge prepared them sufficiently for their duties and responsibilities. Twenty-two percent did not believe the initial training was sufficient. The majority of the judges who did not believe their initial training was adequate stated the training was too general in nature or there was too much theory and not enough real-life application.

The program review committee recommends **the Office of the Probate Court Administrator shall re-examine the scope of the probate judge training and continuing education program to address inconsistent practices and better understanding of probate practice.**

The Office of the Probate Court Administrator and the Probate Assembly shall develop a curriculum and examination to establish the competency of probate judges to hear cases. Before taking office, new probate judges will be required to complete the curriculum and/or pass the examination. Currently sitting judges should be "grandfathered" in for the balance of their term.

Organizational Structure

In previous chapters, the program review committee makes a number of findings and recommendations regarding the finances and administration of the probate courts. The following is a discussion of these findings and recommendations in light of the existing organizational structure of the probate court system.

The probate court system, at least through 2005, has spent less than its incoming gross receipts making it at present self-sustaining. However, two categories of expenses have the potential to impact the financing of the existing 123 probate courts – health insurance costs and indigent costs. In addition, lack of controls on the operating expenses of the individual courts and the Office of the Probate Court Administrator may adversely affect the ability of the probate court system to cover all of its financial obligations. Based on a variety of assumptions, the Probate Administration Fund is likely to develop financial problems by FY 2010.

To promote financial accountability, the program review committee recommends various fiscal controls such as capping the growth of the operating budget of the Office of the Probate Court Administrator, standardizing probate staff salaries, and re-examining the judicial compensation formula. In addition, the committee recommended the costs related to indigent cases be paid from the state's general funds. The issue of controlling health insurance costs is more difficult to resolve.

Since 1996, the cost of each court's share of health insurance for judges and clerks has been a business expenses charge to the Probate Administration Fund. When this practice was authorized, the Probate Administration Fund was sufficient to cover the health insurance expenses. However, the growth of operating expenses including health insurance costs and the transfer of \$15 million from the Probate Administration Fund into the General Fund has changed the current situation. A decision must be made whether the Probate Administration Fund should continue to pay for full coverage of health insurance costs for the existing probate system of 123 courts or whether each court should be charged for its health insurance benefits. As noted in Chapter I, the health insurance costs of 41 courts are currently subsidized by the probate system based on 2004 figures.

One solution to the health insurance for active employees issue is to increase the amount each probate employee is required to financially contribute to his or her health insurance costs regardless of whether the PAF pays for the remaining costs or each individual court does. Whether cost sharing would provide enough savings to maintain the current 123 courts is questionable. A second solution would be to re-examine the number of probate employees receiving health insurance, which raises the question about the numbers of courts.

By state law, probate employees may participate in the state health insurance plan if they work a minimum of 20 hours a week. The probate judges are not subject to this requirement. They receive health insurance coverage and partial coverage for their dependents regardless of the hours they work.

As noted earlier, there are 38 courts operating less than 20 hours a week. The probate judges in these courts are eligible for full health insurance coverage although their staffs are not. Presumably, the probate judges are provided this benefit as an enticement to be available to the courts when needed and handle the incoming workload.

A review of the weighted workload of the 123 probate courts reveals considerable variance. As demonstrated by the workload analysis in Chapter 1, the weighted workload of the courts decreases as the courts decrease in size. Ninety-three percent of the weighted workload is managed by the 80 largest courts. Using counties as opposed to court population as a way of grouping the probate courts, Table VI-7 shows the variance in population served, total and median weighted workload, number of courts, total operating cost per weighted workload (including health insurance), and hours open.

County	Population	Total WWL	Median WWL	Cost per WWL (including health insurance)	Number of Courts	Median Hours
Fairfield	896,202	58,941	2,835	\$101.82	18	37.5
Hartford	865,279	72,418	2,125	\$87.61	24	35
Litchfield	188,568	13,460	605	\$113.62	17	15
Middlesex	159,679	12,534	562	\$106.01	12	20
New Haven	835,657	66,764	2,244	\$80.65	21	32.5
New London	262,689	19,720	744	\$97.52	14	21.5
Tolland	141,089	8,393	1,153	\$91.30	6	17.5
Windham	111,340	7,445	370	\$60.83	11	12

Source: LPR&IC analysis

As the table shows, differences exist among the probate counties. The disparities in weighted workload are most evident in the fact that the Tolland probate county with six probate courts and Windham county with 11 probate courts carry a total weighted workload of 15,838. This is approximately the same total weighted workload of the individual Hartford probate court (15,386). In essence, there are 17 probate judges receiving higher cost per WWL compensation and full health insurance coverage for approximately the same amount of work carried out by one judge.

Based on the program review committee's data analysis, interviews, and survey responses, *the committee concludes that voluntary consolidation of the probate courts is reasonable given the need for stronger financial accountability along with evidence of workload*

inequities in the current probate districts. Analysis conducted by the program review committee shows opportunities for consolidation exists across the state.

For example, in addition to weighted workload disparities noted above, the probate courts in Windham County are open for significantly less hours than most other courts in the state. As Table VI-8 shows, five of the probate districts in this county are open six hours a week or less. With the exception of the Brooklyn probate court, four of these five courts have weighted workloads of 224 or less. Three of the courts have a cost per weighted workload exceeding the statewide median of \$95. This suggests that financial savings would be achieved in the consolidation of some courts in this region.

Court District	WWL	Hours Open	Cost per WWL (including health insurance)
Hampton	159	6	\$31.03
Eastford	183	2	\$105.14
Ashford	187	2.5	\$137.94
Woodstock	224	6	\$152.41
Pomfret	356	24	\$89.42
Thompson	370	12	\$27.39
Brooklyn	628	6	\$58.07
Putnam	803	30.5	\$60.83
Plainfield	1,375	27.5	\$58.68
Killingly	1,427	35	\$75.65
Windham	1,735	19	\$60.44

Source: LPR&IC analysis

Advantages and disadvantages to consolidation. As the example above illustrates, some financial savings may be achieved depending on the number of consolidated courts. Fewer courts should provide greater control of expenses. Combining courts based on weighted workload may achieve some economies of scale and reduce the cost per workload unit. As a result, there may be a decrease in administrative expense including compensation and health insurance benefits for fewer judges. Courts servicing larger populations tend to operate full-time hours, which would provide better access to the public.

While there may be some cost savings achieved through consolidation, there may also be a potential financial cost if there is a significant reduction in the number of courts. Larger courts carry higher workloads perhaps requiring the investment in expanded court facilities and full-time staff. Some believe larger districts covering more geographical area may create transportation issues for certain probate court users such as the elderly, disabled, and residents of rural regions.

Conclusions. The program review committee believes any voluntary consolidation of the courts must take into consideration a number of factors to address several of the potential

disadvantages mentioned above. A plan based on only one factor such as weighted workload or a minimum population district size (e.g., 50,000) would impose a “one size fits all” approach. It may take the voluntary consolidation of many towns in some regions to satisfy a large population minimum potentially creating transportation issues in rural areas and arguably the loss of local or community characteristics. As such, voluntary consolidation must be based on a combination of factors such as workload, adequacy of court facilities, and geography. Therefore, the program review committee makes the following recommendations.

The Office of the Probate Court Administrator and the Probate Court Assembly shall jointly establish a minimum allowable workload standard per full-time employee.

The Office of the Probate Court Administrator and the Probate Court Assembly shall develop a report identifying potential opportunities for a voluntary consolidation of existing probate court districts to achieve a minimum weighted workload in each district. In addition to a minimum weighted workload, the report must take into consideration the adequacy of the existing court facilities, the potential expense for expanded facilities, and any reasonable geographic impact on transportation. Furthermore, the report must take into account the impact of the anticipated expansion of the regional children probate court model on the existing workload of the regular probate courts.

The report shall be developed by September 1, 2006, and provided to the Probate Assembly and the chief elected official of each town recommended for consolidation for comment. A final report, including comments received, shall be submitted to the Judiciary Committee and the Chief Justice by December 31, 2006.

Alternative Approaches

There are at least three alternatives to consolidation. One option is to maintain the status quo. Another is to eliminate the courts completely by merging them into the superior courts. A third is to carve out certain probate jurisdiction. The following is a discussion of the advantages and disadvantages of these approaches.

Maintain the status quo. The legislature could retain the existing structure of 123 probate court districts and make the recommended management improvements to control the costs of the probate system such as better management of the number and compensation of staff, which should help reduce total operating costs. However, as discussed earlier, the cost per weighted workload unit will continue to be high if the level of productivity (i.e., workload) is low.

The existing system of local probate courts has endured a 300-year history.⁹ The current probate structure is based on the notion of preserving a “local” community interest. The geographic convenience of a local court may benefit certain types of probate clients such as the elderly and disabled who may have transportation issues. Proponents for changing the status quo

⁹ Part of the status quo is that individual probate districts can consolidate on their own currently, which has occurred, for example, nine times between 1999 and 2005.

argue that individuals in many areas already travel to another town for other services such as groceries or medical services, which are used more frequently.

Some believe smaller court districts can provide more personal service and insight because of their knowledge and connection with the community. Advocates for consolidation believe that relatives and fiduciaries of decedent estates involved in probate matters are frequently not “local” residents and may even reside in other states. Further, the knowledge and connection with the community may also produce a few negative effects. First, it is unknown to what extent, if any, the local connection and knowledge may affect the court as an objective and impartial entity. Also, some probate attorneys wrote in their comments that the local nature of the probate court system allows judges to show favoritism for local attorneys in decisions and appointments as conservators or other indigent matters.

Seventy-three percent of the probate judges agreed that having a local probate court is important. Fifty percent of these judges strongly agreed with this idea. Sixty-eight percent of the probate attorneys believed having a local court was an important feature.

Table IV-3. Survey Responses Regarding Local Probate Courts				
Having a “local” probate court in each town is important.	Strongly Agree	Agree	Disagree	Strongly Disagree
Judge response (N=94)	50%	23%	17%	10%
	73%		27%	
Attorney response (N=242)	39%	29%	25%	7%
	68%		32%	
Source: LPR&IC survey analysis				

However, this approach would allow an inefficient management of resources and require an infusion of revenue to sustain it. In particular, funds must be located to address the growth of health insurance costs. As discussed earlier, this could be accomplished by either requiring probate staff to financially contribute more to their health insurance costs, providing state revenue to cover the expense, making the towns served by the probate district responsible for the health insurance, or increasing the probate fees of the users of system.

Merger into superior court. Another option could merge the probate courts into the existing superior court system. A merger may alleviate certain issues raised by some practitioners. Probate matters would be handled by full-time superior court judges who are attorneys screened by the state Judicial Selection Commission. Concerns regarding ethical conflicts of interest, accessibility of court hours, and the problem of de novo appeals would presumably be resolved. Minimal cost savings may be achieved with the elimination of part-time probate judges. Towns would not be obligated to provide facilities. The geographical areas would follow accepted existing judicial districts. All fees would be paid into the general fund and subject to the controls of the judicial branch. Probate staff would be state employees managed by state guidelines and regulation. In addition, revenue may increase if the probate entry fees were made parallel to the superior court fees.

However, the superior court system is not known to be user-friendly. There is also concern that a merger could mean delays in proceedings and longer wait times in an already burdened superior court system. It is unlikely the existing number of superior court judges would be able to absorb the probate workload. Additional judges would have to be selected and appointed by the Judicial Selection Commission. Depending on the number of additional judges needed, costs may increase as the full-time judges would be compensated at the full rate of superior court judges. In addition, the current judicial court facilities might be able to handle an increase of traffic and workload.

The program review committee survey asked probate judges to what extent the probate courts should be incorporated into the superior court system. Ninety-six percent answered “Not at all”, and one percent said “Incorporate completely”. Three percent said only certain functions such as children’s matters should be incorporated into the superior court system.

The probate attorneys held a similar sentiment. Ninety-four percent stated they disagreed with all probate functions being totally merged into the superior court. Of these responses, 69 percent strongly disagreed. Only six percent of the attorneys felt that the courts should be merged. The written comments from both judges and attorneys indicated concerns for the loss of the user-friendly aspects of the probate courts and the potential for delays in the length of time to resolve matters.

The program review committee agrees that wholesale elimination of the probate courts as a separate system would achieve minimal financial savings and would be viewed as a loss of service to the people in the districts those courts serve.

Carve out probate jurisdiction into other forums. A third alternative would be to carve out certain probate functions into newly established specialty courts or even into the existing superior court system. This concept is currently used in the New Haven regional children’s probate court model. This concept was also an aspect of the probate court administrator’s 2004 reorganization plan. The plan created a two-tiered system where any party could remove a contested case to one or more statewide specialty courts with appointed judges that would hear contested cases.

Separating certain probate functions such as contested matters, children’s issues, or cases relating to mental illness, and placing them into another forum may provide some benefit to the isolated matters. Additional resources including social workers or specially trained judges and staff may be dedicated to these cases. The grouping of certain issues may result in greater consistency in handling these issues. Support for this concept, at least for children’s matters, is evident in that the legislature has already authorized the expansion of this model.

Table IV-4 shows 55 percent of the judges and the probate attorneys felt that there should be specialty probate courts for matters such as children’s issues or mental illness. In particular, the judges appeared to support isolating children’s matters as 79 percent of the judges believed the regional children’s probate court model was a good concept.

There should be specialty probate courts for matters such as children’s issues or mental illness.	Strongly Agree	Agree	Disagree	Strongly Disagree
Judges response (N=94)	19%	36%	28%	17%
	55%		45%	
Attorneys response (N=233)	25%	32%	36%	6%
	57%		42%	
In theory, a regional children’s probate court model is a good concept.				
Judges response (N=94)	22%	57%	14%	6%
	79%		20%	
Source: LPR&IC survey analysis				

Cost is the greatest disadvantage to this option, which creates another level of bureaucracy that must be paid for (e.g., the potential expense of additional court facilities and staff). Depending on the type and number of functions carved out, the regular probate courts could lose a substantial amount of work thereby reducing them primarily to administrative tasks. In addition, more administrative costs and paperwork may be created from a model that requires the transfers of cases from one court to another such as specialty courts for contested matters.

In general, the probate judges and attorneys seem to agree that the current probate jurisdiction is not overextended. As Table IV-5 shows, the vast majority of judges (97%) and attorneys (87%) disagreed with the statement that the current scope of probate jurisdiction is too broad. Almost all of the probate judges (98%) and attorneys (97%) responding to the committee survey felt that probate courts should continue to have exclusive jurisdiction over decedent estates. Eighty-seven percent of the judges and 84 percent of the attorneys believed the probate courts should continue to have shared or concurrent jurisdiction with the superior court.

The current scope of probate court jurisdiction is too broad.	Strongly Agree	Agree	Disagree	Strongly Disagree
Judges Response (N=93)	0%	3%	39%	58%
	3%		97%	
Attorneys Response (N=241)	1%	12%	60%	27%
	13%		87%	
Probate courts should continue to have exclusive jurisdiction over decedent estates.	Strongly Agree	Agree	Disagree	Strongly Disagree
Judges Response (N=93)	84%	14%	2%	1%
	98%		3%	
Attorneys Response (N=240)	61%	36%	3%	0%
	97%		3%	
Probate courts should continue to have shared or concurrent jurisdiction on certain matters with the superior court. (e.g. children’s matters)	Strongly Agree	Agree	Disagree	Strongly Disagree
Judges Response (N=93)	42%	45%	11%	2%
	87%		13%	
Attorneys Response (N=234)	17%	67%	12%	4%
	84%		16%	
Source: LPR&IC survey analysis				

APPENDICES

Legislative Program Review and Investigations Committee

SURVEY OF PROBATE JUDGES

1) On average, how often do you personally have contact, by telephone or in person, with the Office of the Probate Court Administrator regarding any aspect of your work as a probate judge? N=93

(a) Daily 3% (b) Weekly 42% (c) Monthly 38% (d) A few times a year 16%

2) Please rate the current performance of the Office of the Probate Court Administrator in terms of each aspect listed below:

		Excellent	Good	Fair	Poor
(a) Assistance with legal questions/research	N=94	77%	12%	10%	2%
(b) Development of transmittal memorandum/regulations	N=92	43%	42%	9%	5%
(c) Court visits	N=93	40%	47%	9%	4%
(d) Financial audits	N=89	38%	48%	9%	4%
(e) Assistance with financial questions	N=92	32%	37%	23%	9%
(f) Citation	N=93	58%	33%	8%	1%
(g) Continuing judicial education	N=92	40%	41%	15%	3%
(h) Computer support	N=92	23%	23%	25%	29%

3) Overall, how satisfied are you with the ability of the Office of the Probate Court Administrator to:

		Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied
(a) Represent your interests	N=94	13%	30%	30%	28%
(b) Explain changes in the probate court system	N=93	20%	38%	23%	19%
(c) Implement changes in the probate court system	N=94	13%	39%	29%	20%
(d) Inform you of important events and situations	N=94	29%	31%	22%	18%
(e) Advise you of changes in OPCA staff assignments and responsibilities	N=93	9%	44%	20%	27%
(f) Assist you in identifying and solving problems	N=94	27%	36%	19%	18%
(g) Prepare a budget for the probate court system	N=91	13%	37%	26%	23%
(h) Manage the expenses paid for by the probate administration fund	N=88	15%	33%	26%	26%
(i) Provide system-wide statistic/financial data	N=91	15%	32%	27%	25%
(j) Provide analysis of fund expenditures	N=90	13%	33%	26%	28%

4) Do you believe any shortcomings exist in the authority of the Probate Court Administrator position? Yes
64% No 36% N=87

4a) If yes, please specify and explain. _____

5) Do you believe the training you received during your first six months as a probate judge prepared you sufficiently for your duties and responsibilities? Yes 78% No 22% N=91

5a) If no, was the training: N=26

38% (i) too general in nature

___ (ii) too complex

___ (iii) the right level of detail, but situations discussed rarely occur on the job

38% (iv) too much theory and not enough real-life application

23% (v) other (please explain) _____

6) In recent years, there has been debate regarding the financial condition of the Connecticut probate court system. How much of a financial problem do you believe exists for your individual court and for the overall system now and over the next five years?

Currently:	Significant Problem	Moderate Problem	Minor problem	Not a problem	Don't know
(a) Your district N=93	3%	9%	11%	75%	2%
(b) Whole probate system N=93	13%	22%	22%	34%	10%
Over the next five years:					
(c) Your district N=93	9%	12%	14%	52%	14%
(d) Whole probate system N=90	23%	20%	21%	16%	20%

7) In your opinion, do the following items require revision?

a) the annual financial assessment formula Yes 57% No 44% N=88

If yes, why? _____

b) the judges' compensation schedule Yes 72% No 28% N=92

If yes, why? _____

c) the calculation of decedent's fees Yes 55% No 45% N=94

If yes, why? _____

d) the probate fee structure (\$150 filing fee) Yes 65% No 35% N=91

If yes, why? _____

e) the weights assigned to calculate weighted workload Yes 65% No 35% N=91

If yes, why? _____

f) probate staff salary structure (e.g., probate clerks) Yes 75% No 25% N=91

If yes, why? _____

8) To what extent would you agree or disagree with the following statements:

	Strongly Agree	Agree	Disagree	Strongly Disagree
(a) The current method of calculating probate fees for decedent estates is fair. N=93	11%	55%	24%	11%
(b) The position of a probate judge should be a full-time occupation. N=93	13%	9%	45%	33%
(c) Probate judges should be required to be attorneys. N=94	32%	27%	16%	26%
(d) There should be specialty probate courts for matters such as children’s issues or mental illness. N=94	19%	36%	28%	17%
(e) The current scope of probate court jurisdiction is too broad. N=93	0%	3%	39%	58%
(f) Probate courts should continue to have exclusive jurisdiction over decedent estates. N=93	84%	14%	2%	1%
(g) Having a “local” probate court in each town is important. N=94	50%	23%	17%	10%
(h) Probate courts should continue to have shared or concurrent jurisdiction over certain matters with the superior court. N=93	42%	45%	11%	2%
(i) Revenues generated by probate fees should <u>only</u> be used for the administration and maintenance of the 123 probate courts. N=92	38%	30%	26%	5%
(j) Revenues generated from probate fees should be used to fund special projects such as the regional children’s probate court or mental health projects. N=91	15%	35%	27%	22%
(k) In theory, a regional children’s probate court model is a good concept. N=94	22%	57%	14%	6%

9) Do you believe a structural reorganization plan for the probate court system is necessary?

Yes 40% No 60% N=92

10) Should there be forced consolidation of probate districts unable to maintain financial autonomy?

Yes 37% No 63% N=89

11) Would you favor or oppose a structural reorganization plan based on population minimums (e.g., districts of at least 45,000)? Favor 29% Oppose 71% N=91

12) Would you favor or oppose a structural reorganization plan based on average weighted caseload?
Favor 23% Oppose 77% N=84

13) To what extent should the probate courts be incorporated into the superior court system?
N=93

- 96% (a) Not at all
- 3% (b) Only certain functions (list : _____)
- 1% (c) Incorporate completely

14) Are there any comments you would like to make regarding any aspect of the Connecticut probate court system or the Office of the Probate Court Administrator?
(Please attach a separate piece of paper, if necessary)

Common Themes in Probate Judges' Written Survey Responses

In addition to the individual survey questions, the survey responses from the 94 probate judges also generated a great number of written comments about the probate court system. Certain perspectives were unique to the respondent's experience. However, several key themes emerged and those common threads are summarized here.

Number Of Judges	<u>Statement</u>
21	OPCA needs the ability to enforce/have oversight of individual courts
5	OPCA should be in charge of all probate finances
3	OPCA should NOT be in charge of all probate finances
7	OPCA authority is too broad
2	OPCA does not need public relations staff
10	Concern over the OPCA expenditures
8	Administrator should be appointed by Governor/Legislature
19	Loss of OPCA longtime employees (Chief of Staff and Financial Director)
10	Administrator is misrepresenting/not forthcoming with information
9	Administrator is exceeding authority
7	Administrator only wants consolidation
18	Administrator has personal agenda
7	Administrator treats probate courts differently
7	Administrator has tried to implement change
6	Judge's compensation should be based on WWL
2	Judge's compensation should be based on hours worked
2	Judge's compensation should be based on population served
39	New calculation of probate fees is unfair
35	Entry fee should be the same as Superior Court
22	Weighted workload is not accurate
21	Weighted workload is arbitrary
5	Probate courts should be full-time
3	Position of probate judge should be full-time
4	Probate judges should be attorneys
2	Probate judges NOT be required to be attorneys
10	Reduce the number of probate courts
2	Reorganization should be based on population served
2	Reorganization should be based on weighted workload
19	No merger with Superior Court
6	Involuntary consolidation won't work
4	Finances should not be the only reason to consolidate
15	Minor adjustments to system needed
3	Administrator's 2004 reorganization plan is good
4	Reform needed
4	Administrator and Probate Assembly are not getting along
8	Probate Assembly should have more input/voice
55	Probate staff salaries are inconsistent/need guidelines

- 5 Standards/guidelines needed for consistency
- 3 Probate staff should be state employees
- 2 State should assume all insurance costs

- 6 300 year history should be preserved
- 24 Probate courts provide valuable/unquantifiable community service
- 9 Probate courts are user-friendly
- 17 Probate courts provide informal atmosphere and convenient access
- 5 Informality of process is important

- 7 Specialty courts will drain system finances
- 7 Regional children's court costs are not accurate
- 4 Special projects costs should be shared by other agencies (DMHAS/DCF)

- 6 There is no financial crisis
- 3 Legislature should not have taken \$15 million
- 8 Probate courts have bad image

- 9 Probate courts need better technology

Random Selection Process for Probate Attorneys

The program review committee staff used five lists to compile a pool of attorneys to receive the survey including:

- 1) attorney lists compiled and used by each probate court for conservatorships and other appointments;
- 2) attorneys who have received reimbursement for cases before a probate court within the last year (e.g. indigent cases);
- 3) attorneys who have purchased a probate practice book;
- 4) attorneys providing contact information found on the computerized probate case management system within the last year; and
- 5) attorneys who are members of the Connecticut Bar Association's Section on Estates and Probate.

The pool, based on the mailing address, was then divided into: large, medium, small and extra small by population sizes (e.g. Hartford is a large court with a population over 70,000). Approximately 125 addresses in each population size were randomly selected and mailed.

Legislative Program Review and Investigations Committee

SURVEY OF ATTORNEYS WHO PRACTICE IN PROBATE COURT

1) In the course of your practice, how often, on average, do you interact with a Connecticut probate court?

(a) Daily 13% (b) Weekly 51% (c) Monthly 23% (d) A few times a year 13% N=243

2) During the last three years, how many different Connecticut probate courts have you dealt with?

(a) Only one court 4% (b) Two or three courts 23% (c) More than three courts 73%

N=244

3) In what subject area(s) has your Connecticut probate experience primarily been: N=245

(a) Estates 87% (b) Trusts 45% (c) Children's matters 29% (d) Guardianships 44%

(e) Conservatorships 71% (f) Other 8% (please specify _____)

4) Based on your most recent experience with a Connecticut probate court, please rate the performance of that probate court in handling your legal matter in terms of:

		Excellent	Good	Fair	Poor
(a) Quality of staff assistance	N=242	74%	21%	5%	0%
(b) Accessibility of court hours	N=242	50%	38%	12%	0%
(c) Length of time to resolve matter	N=242	52%	37%	7%	4%
(d) Judge's knowledge of the law and procedure	N=240	67%	25%	5%	2%
(e) Judge's demeanor/conduct	N=240	75%	18%	5%	2%

5) If you have dealt with more than one Connecticut probate court, did you find any major differences among them?

Yes 57% No 43% N=233

5a) If yes, what were the differences? _____

6) Based on your overall experience, please rate the performance of Connecticut probate courts in handling your legal matter in terms of:

		Excellent	Good	Fair	Poor
(a) Quality of staff assistance	N=242	61%	32%	7%	0%
(b) Accessibility of court hours	N=242	34%	48%	16%	2%
(c) Length of time to resolve matter	N=242	38%	50%	9%	3%
(d) Judge's knowledge of the law and procedure	N=241	54%	38%	7%	1%
(e) Judge's demeanor/conduct	N=242	64%	30%	6%	0%

7) Based on your cumulative experience, how would you rate the Connecticut probate court system overall in terms of the items listed below:

		Excellent	Good	Fair	Poor
(a) Simplicity of its process	N=244	48%	38%	10%	5%
(b) Fairness of its process	N=244	56%	36%	7%	2%
(c) Integrity of its process	N=243	63%	29%	6%	2%
(d) Objectivity of the judges	N=242	61%	29%	8%	2%

8) Based on your cumulative experience dealing with Connecticut probate courts, to what extent would you agree or disagree with the following statements:

	Strongly Agree	Agree	Disagree	Strongly Disagree
(a) The method of calculating probate court fees for decedent estates is fair. N=231	13%	52%	26%	9%
(b) Probate court filing and processing fees (e.g., \$150 application) are fair. N=238	21%	66%	11%	2%
(c) The position of a probate judge should be a full-time occupation. N=233	27%	27%	38%	9%
(d) Probate judges should be required to be attorneys. N=242	49%	31%	16%	4%
(e) There should be specialty probate courts for matters such as children’s issues or mental illness. N=233	25%	32%	36%	6%
(f) All probate functions should be totally merged into the superior court. N=240	4%	2%	25%	69%
(g) Having a “local” probate court in each town is important. N=242	39%	29%	25%	7%
(h) The current scope of probate court jurisdiction is too broad. N=241	1%	12%	60%	27%
(i) Probate courts should continue to have exclusive jurisdiction over decedent estates. N=240	61%	36%	3%	0%
(j) Probate courts should continue to have shared or concurrent jurisdiction on certain matters with the superior court. (e.g. children’s matters) N=234	17%	67%	12%	4%

9) Are there any comments you would like to make about any aspect of the probate court system in Connecticut?
(Please use a separate piece of paper if necessary.)

Common Themes in Attorney Written Survey Responses

In addition to the individual survey questions, the survey responses from the 245 probate attorneys around the state yielded a great number of written comments about the probate court system. Certain perspectives were unique to the respondent's experience with the system. However, several key themes emerged and those common threads are summarized here.

Number of <u>Attorneys</u>	<u>Statement</u>
45	Quality of staff assistance differs among probate courts
31	Accessibility of court hours is problem
37	Length of time to resolve matters differs among probate courts
43	Judges knowledge of law or procedure differs among courts
26	Judges demeanor/conduct is problem
20	Probate fees are high
23	There should be full-time probate courts
23	Probate courts provide valuable/unquantifiable community service
22	Probate courts are user-friendly
23	Probate courts provide informal atmosphere and convenient access
2	Probate courts need better technology
7	Contested cases should be required to be "on the record"
5	Probate courts must have adequate facilities
22	Consolidate/reduce number of probate courts
2	Probate courts should merge with Superior Court
28	Probate courts should not merge with Superior Court
3	Geography should be considered when merging probate districts
2	Elected judges are a good idea
4	Elected judges are not a good idea
42	Inconsistent practices exist among probate courts
21	Procedural improvements to the probate system are needed
13	Probate process take too long to resolve
29	Local nature of probate court is good
7	Local nature of probate court allows favoritism
9	Judges do NOT need to be attorneys
18	Judges must be attorneys
11	Conflict of interest exists with part-time judges
4	More training needed in probate courts
8	Children's probate court is a good idea
7	Specialty courts are needed
2	Probate courts should be funded by General Fund
2	Probate system works well because of attorneys
3	Probate courts produce too much busywork
3	There is no "one" probate experience
5	Probate court should adopt Uniform Probate Code

6 Reform is needed in system
24 System worth saving
7 Minor adjustments to system needed

APPENDIX B
Overview of Probate Court Jurisdiction

Probate Court Jurisdiction

A brief overview of the probate court's roles and responsibilities is provided below. (This is a general summary and not intended to be an exhaustive description of probate court function.)

Decedent's estates. A probate court becomes involved in the settling of an estate after a person who owns property dies. If the person died without a will or intestate, the decedent's property is divided according to Connecticut's laws of intestacy. If the person, known as the decedent, left a will, the property will be divided according to the decedent's wishes. Generally, the probate court will receive an application to probate the will and approve of the will's executor within 30 days of the person's death.

The probate court will set a hearing date and send a hearing notice to the beneficiaries named in the will. If the decedent's heirs or named beneficiaries are minor(s) or are otherwise legally incapable, the court will appoint a guardian ad litem to represent them and protect their interests. The probate judge considers any objections raised at the hearing. The probate court will also insure that the decedent's debts, funeral expenses, and taxes are paid before distributing the remaining assets of the estate.

The court will appoint a fiduciary to prepare an inventory (a listing the fair market value of the property as of the date of death) of all of the decedent's assets. The court will order that the fiduciary post a bond to provide indemnity of the creditors and beneficiaries in the event the fiduciary mishandles the property in the estate. The court may then hold a hearing on the acceptance of the inventory and appraisal with notice given to the fiduciary and all interested parties.

The probate court also conducts a hearing on the final account. The hearing allows beneficiaries, the judge, and other interested parties to object to the manner in which the estate funds were used or to the proposed distribution. If the court approves the final account, the fiduciary may distribute the assets of the estate. Once the property has been distributed, an affidavit of closing must be filed with the court.

The court may also perform various functions in the matters relating to decedent's estates including the following:

- Admission of a codicil or addition to a will
- Provide legal notice in a local newspaper informing the estate's creditors of the decedent's death and the creditor's obligation to present claims promptly
- Resolve disputed creditors' claims
- Review requests for an allowance for support of the surviving spouse or children
- Determine title to the ownership of the decedent's real or personal property
- Authorize the fiduciary to sell real estate, and
- Supervise procedures if there is wrongful death litigation.

The probate court also has a modified method of probating a small estate if assets of a decedent consist of personal property less than \$20,000.

Any person aggrieved by an order, denial, or decree of the probate court may appeal to the superior court. In general, appeals must be taken within 30 days of the date of the order, denial, or decree.

Conservatorships. Another probate court function is the appointment of conservatorships to protect the interests of individuals who are found to be incapable of caring for themselves or their affairs and property. For an involuntary conservatorship, the court must find by clear and convincing evidence that the individual is incapable of caring for him/herself and/or his/her affairs. In general, conservators of the person must report to the court annually. Conservators of the estate are required to file an accounting every three years. The court can also grant voluntary conservatorship without making a finding of incapacity. The conservator duties are the same as a conservator in an involuntary proceeding.

An individual, who is at least 18 years old and of sound mind, may seek advance designation of a conservator. The conservatorship goes into effect when the individual is found to be incapable of handling his/her affairs and/or caring for him/herself.

The court may appoint a temporary conservator in an emergency situation when it can be shown that irreparable personal, financial, or legal damage will result from a person alleged to be incapable of managing his/her affairs or of caring for him/herself. Although formal notice and a hearing are not required, anyone involved may submit a written request for a hearing. At the hearing, the court may either confirm or revoke the temporary conservatorship.

Trusts. Probate courts also have jurisdiction over trust matters. Generally, a trust is a legal device to bestow a benefit on one party from the property legally held by another party. Beneficiaries, trustees, and other interested parties may turn to the probate courts to examine and obtain information about trusts in which they have an interest. Jurisdiction over testamentary trusts (created within a will) is governed by statutes, which authorize the probate courts to:

- Appoint a trustee;
- Require trustees to account for their actions as fiduciaries;
- Set probate bonds; or
- Remove a trustee for cause and fill the vacancy.

Guardianship of persons with mental retardation. The probate court may also appoint a guardian to oversee all or selected aspects of the care of an adult with mental retardation. The court must find by clear and convincing evidence that the individual is totally or partially unable to meet the needs for his or her physical health or safety and totally or partially unable to make informed decisions about matters relating to his or her care. The court must make written findings of facts that support each grant of authority to the guardian. The court may appoint:

- A *plenary guardian* to supervise all aspects of care for an adult with mental retardation who is “totally” unable to care for his/her physical health or safety;
- A *limited guardian* to oversee only certain specified aspects of care if the adult with mental retardation is able to do some, but not all, of the tasks necessary to meet the essential requirements of the his/her care; or
- A *temporary limited guardian* when an adult with mental retardation is in need of elective surgery, medical, or dental procedures and is unable to give informed consent to such treatment.

Under certain conditions, the probate court has the authority to place a person with mental retardation with the state Department of Mental Retardation (DMR). The court may hear evidence and testimony from the DMR assessment team members, the adult with mental retardation, relatives, friends, social workers, or physicians or anyone who may provide additional information. If necessary, the judge may order further examination by a physician, psychiatrist or psychologist.

All guardians must submit an annual report to the court detailing the ward’s condition. The court may require additional reports. The court must review guardianships at least every three years. If necessary, the court may hold a hearing on the ward’s status. Any parent of a mentally retarded adult person for whom a conservator of the person or a guardian has been appointed may file a motion for visitation with the probate court. A hearing must be held before expanding or reducing the powers or responsibilities of a guardian. Any conflicts between guardians are to be resolved by the probate court.

Sterilization. A probate court is also empowered to consider “informed consent” to permit sterilization. A probate judge may consider medical, social, educational, residential, and psychological evidence to decide if sterilization is in the person’s best interest.

Commitments of mentally ill persons. The probate courts also have jurisdiction over the commitment of mentally ill persons. Probate judges may determine that a person has psychiatric disabilities and is gravely disabled or is either a danger to him/herself or to others. Any one may make application and all commitment proceedings are confidential.

When a mentally ill person is confined to a hospital under a 15-day physicians certificate, the probate court must hold a hearing within 72 hours, excluding weekends and holidays, to determine whether there is probable cause to continue to hold the confined person for the balance of the 15 day period.

Shock therapy. The probate court may grant permission for shock therapy if the head of the hospital and two qualified physicians determine the patient is incapable of giving informed consent and there is no other reasonable alternative procedure.

Children's matters

The probate courts also have jurisdiction over a number of children's matters.

Adoption. Probate judges may approve an adoption of a child who has no living parents or where all parental rights have been terminated by law. The court may order an investigation regarding the proposed adoption before making a decision. An investigation by an approved child-placing agency is required in a co-parent or relative adoption. The investigation, paid for by the petitioners, determines the overall needs of the child and the abilities of the petitioners to meet those needs.

The probate court will hold a hearing after the investigation is completed and a written report issued. All interested parties receive a hearing notice. If the judge finds the adoption is in the best interests of the child, the application will be approved.

Removal of guardians of the person of a minor. A probate court may remove a parent or other court appointed guardian if it finds by clear and convincing evidence that a child's health or welfare is in danger. The court may also grant visitation rights or reinstate the removed guardian upon proof that the issues that resulted in removal have been resolved satisfactorily.

Termination of parental rights. A probate judge may consider petitions to terminate an individual's parental rights. If the court finds the termination is in the child's best interests and other statutory grounds are found, the judge may: appoint a child-placing agency as a statutory parent; appoint a guardian of the person; or confirm the sole remaining parent as the guardian of the child. If the matter is contested, the court must order an investigation.

Usually, the court will require an investigation of the facts by the state Department of Children and Families. The court cannot hold a hearing on the merits of the application until the DCF report has been received. DCF must submit its report to the court within 90 days of the request. The judge also has the authority to order a physical and/or psychological examination of the child and/or the parents.

The court will hold a hearing where all interested parties and their attorneys may offer evidence, examine and cross-examine witnesses, and present arguments. Both federal and state law requires the guardian or the statutory parent to submit a case plan for the permanent placement of the child within 30 days of the entry of the termination decree. Reports must be submitted at least every three months thereafter until plan is implemented. The court, at its discretion, may hold a hearing when a report is filed. The court must hold a hearing to review the case plan within 12 months of the termination decree and annually thereafter until placement is complete.

Guardian of the estate of a minor. A probate judge may appoint a temporary guardian, standby guardian, or co-guardians other than a parent to have legal control over a minor. The court may also supervise guardians appointed by a parent in a will. The guardian must file periodic financial accounts with the probate court showing all transactions that occurred on the minor's behalf during the accounting period. A periodic account hearing must be held at least once in every three-year period.

Emancipation. The probate court is empowered to emancipate a minor child from his or her parents if the child's situation is found to meet one of the statutory grounds. A hearing must be held within 30 days after the filing of the petition. The court will order DCF to investigate the matter and report to the probate court any facts that may be relevant. The court may order physical and psychological examinations of the minor and/or the parent or custodian. Any person named in the petition who is aggrieved by the probate court's order may appeal.

Care and placement. The probate court may review the placement and continued care of a mentally ill or emotionally disturbed child in a non-committed program offered by DCF. Within 120 days after admitting a child on a voluntary basis, DCF must petition the probate court for a determination as to whether continuation of care is in the child's best interests and whether there is an appropriate permanency plan. After proper notice to all interested parties of the hearing, the court shall approve a permanency plan that is in the best interests of the child and takes into consideration the child's need for permanency. The commissioner must file a motion with the court to review the permanency plan after 10 months and every year thereafter.

Other matters

The probate court also has jurisdiction over a variety of miscellaneous matters including:

- Determine for paternity of a child born out of wedlock;
- Approve of a legal name change;
- Join persons in marriage and consent to the marriage of minors;
- Award custody of remains to appropriate party;
- Interpret living wills, health care instruction, agents, conservatorship designations and anatomical gifts;
- Review an order of isolation, quarantine or vaccination issued by commissioner of public health; and
- Issue of an enforcement order when the director of health has issued a warning to an individual to submit to an examination of tuberculosis.

APPENDIX C

Tally Sheet with Weighting Factors

WEIGHTING FACTORS

FEE WAIVERS	1
DECEDENTS' ESTATES:	
ADMINISTRATION-INTESTATE	4
PRObate OF WILL-TESTATE	4
SALE OR MORTGAGE OF REAL ESTATE	3
COMPROMISE OF CLAIM	3
ALLOWANCE FOR SPOUSE AND/OR FAMILY	2
ALLOWANCE OF ACCOUNT (INCLUDING PC-243 STATEMENT IN LIEU OF ACCOUNT)	4
OTHER APPLICATIONS AND PETITIONS	3
SMALL ESTATES AFFIDAVIT (PC-212 - Under \$10,000.00)	3
SECTION 4a-16 ESTATES	1
TAX PURPOSES ONLY (S-1 or S-2 only) Count only where there is no Application for Probate or Administration or Affidavit in Lieu of Administration or Section 4a-16 Estate. DO NOT count S-1 or S-2 where application or affidavit previously counted on estate.	2
INFORMAL STATUS CONFERENCES	2
WILL CONTESTS	5
APPEALS FROM ADMITTANCE OF WILL	1
TRUSTEES:	
APPOINTMENT OF TESTAMENTARY TRUSTEE	2
TRUST ACCOUNTS WHICH REQUIRE HEARING	3
TERMINATION OF CHARITABLE TRUSTS (C.G.S. 45a-520a)	3
OTHER TRUST PROCEEDINGS	3
INTER VIVOS TRUST HEARINGS	3
INFORMAL STATUS CONFERENCES	2
ADOPTIONS AND TERMINATIONS:	
TERMINATION OF PARENTAL RIGHTS (PC-606 ONLY) Combination termination of parental rights and adoption should be counted as relative or step-parent adoption below.)	5
TRANSFERS TO SUPERIOR COURT-JUVENILE MATTERS	2
APPROVAL OF ADOPTION AGREEMENT-STEPARENT	4
APPROVAL OF ADOPTION AGREEMENT-RELATIVE	4
APPROVAL OF ADOPTION AGREEMENT-STATUTORY PARENT (NON IDENT.ADOPT.) processed by DCF	4
APPROVAL OF ADOPTION AGREEMENT-STATUTORY PARENT (NON IDENT.ADOPT.) processed by Private Agencies	4
APPROVAL OF ADOPTION AGREEMENT-STATUTORY PARENT (IDENT.ADOPT.) processed by DCF	4
APPROVAL OF ADOPTION AGREEMENT-STATUTORY PARENT (IDENT.ADOPT.) processed by Private Agencies	4
APPOINTMENT OF GUARDIAN AD LITEM FOR MISSING, DECEASED OR INCOMPETENT BIRTHPARENT	1
OTHER APPLICATIONS OR PETITIONS	3
INFORMAL STATUS CONFERENCES	2
CHILDREN'S MATTERS:	
EMANCIPATION OF MINORS (P.A. 78-219)	5
APPOINTMENT OF GUARDIAN OF THE ESTATE	3
TEMPORARY GUARDIANSHIP (C.G.S. 45a-607)	3
APPOINTMENT OF CO GUARDIANS OF THE PERSON (C.G.S. 45a-619)	3
COMPROMISE OF CLAIM	3
REMOVAL OF GUARDIAN OF THE PERSON	4
TRANSFERS TO SUPERIOR COURT	2
ALLOWANCE OF ACCOUNT	3
OTHER APPLICATIONS OR PETITIONS	3
TEMPORARY CUSTODY (Pending Removal or Termination)	4
IMMEDIATE TEMPORARY CUSTODY (EX PARTE) (C.G.S. 45b-603)	5
PATERNITY CLAIMS (C.G.S. 46b-173)	4

INFORMAL STATUS CONFERENCES	2
DCJ INITIAL DETERMINATION HEARING (P.A. 97-272)	4
DCJ DISPOSITIONAL HEARING (P.A. 97-272)	4
CONSERVATORS:	
APPOINTMENT OF CONSERVATOR OF THE PERSON-INVOLUNTARY	4
APPOINTMENT OF CONSERVATOR OF THE PERSON-VOLUNTARY	3
APPOINTMENT OF CONSERVATOR OF THE ESTATE-INVOLUNTARY	4
APPOINTMENT OF CONSERVATOR OF THE ESTATE-VOLUNTARY	3
APPOINTMENT OF CONSERVATOR OF THE PERSON/ESTATE-SAME APPL-INVOL.	4
APPOINTMENT OF CONSERVATOR OF THE PERSON/ESTATE-SAME APPL-VOL.	3
APPOINTMENT OF TEMPORARY CONSERVATOR	3
THREE-YEAR REVIEW	2
SALE OR MORTGAGE OF REAL ESTATE	3
ALLOWANCE OF ACCOUNT	4
OTHER APPLICATIONS OR PETITIONS	3
APPLICATION FOR PERMISSION FOR MEDICATION (C.G.S. 17a-543)	5
APPLICATION FOR ORDERS CONCERNING LIFE SUPPORT SYSTEMS	5
INFORMAL STATUS CONFERENCES	2
COMMITMENTS - ADULTS:	
APPLICATION/COMMITMENT DRUG & ALCOHOL DEPENDENT (P.A. 98-219)	5
APPLICATION FOR PERMISSION FOR SHOCK THERAPY	5
APPLICATION FOR COMMITMENT/MENTALLY ILL (C.G.S. 17a-494)	5
PROBABLE CAUSE HEARING (C.G.S. 17a-502(a) and (b))	4
WARRANTS ISSUED (C.G.S. 17a-503)	3
ANNUAL REVIEW/Appointment of Psychiatrist Only-No Hearing (C.G.S. 17a-498(2))	2
ANNUAL REVIEW/Redetermination Hearing (C.G.S. 17a-510)	2
BIENNIAL REVIEW HEARING (C.G.S. 17a-498(g))	3
APPLICATION BY PATIENT FOR RELEASE (C.G.S. 17a-510)	4
OTHER APPLICATIONS OR PETITIONS	3
INFORMAL STATUS CONFERENCES	2
COMMITMENTS - CHILDREN (Under 16):	
APPLICATION FOR COMMITMENT	5
APPLICATION BY CHILD FOR RELEASE FROM PARENTAL-VOLUNTARY	4
TRANSFER TO SUPERIOR COURT	2
OTHER APPLICATIONS OR PETITIONS	3
INFORMAL STATUS CONFERENCES	2
PROCEEDINGS RE: MENTALLY RETARDED PERSONS:	
PLACEMENT OF MENTALLY RETARDED PERSON (C.G.S. 17a-274)	4
PLENARY GUARDIAN FOR MENTALLY RETARDED PERSON (C.G.S. 45a-676)	4
LIMITED GUARDIAN OF MENTALLY RETARDED PERSON (C.G.S. 45a-676)	4
TEMPORARY LIMITED GUARDIAN FOR MENTALLY RETARDED PERSON (C.G.S. 45a-682)	4
THREE-YEAR REVIEW (C.G.S. 45a-681)	3
STERILIZATION (C.G.S. 45a-690)	5
OTHER APPLICATIONS OR PETITIONS	3
INFORMAL STATUS CONFERENCES	2
OTHER MATTERS:	
CHANGE OF NAME APPLICATIONS	2
PASSPORT APPLICATIONS	0
MARRIAGE - REQUEST FOR PERMISSION (MINORS)	1
MARRIAGE - REQUEST FOR WAIVER-FOUR-DAY AND/OR BLOOD TEST	1
ADITIONS FOR APPEAL	0
ACTIONS ON A PROBATE BOND (P.A. 98-27)	6

JUN02

APPENDIX D

MEMO (March 26, 2001)
RE: Computerization of Small Courts



STATE OF CONNECTICUT
OFFICE OF THE
PROBATE COURT ADMINISTRATOR

JUDGE F. PAUL KURMAY
ADMINISTRATOR
ATTORNEY LINDA A. DROW
CHIEF COUNSEL
ATTORNEY THOMAS E. GARREY
ASSISTANT TO THE ADMINISTRATOR

March 26, 2001

186 NE WINGTON ROAD
WEST HARTFORD, CT 06115
TEL (860) 566-7837
FAX (860) 566-3555

Hon. Deborah M. Pearl
Essex Probate District
29 West Avenue
Essex, CT 06426

Re: Computerization of Small Courts

Dear Deb,

Thank you for your letter of March 16, 2001. I was about to answer it while I was in Stratford for hearings last week, when the roof "fell in," i.e. everyone and their brother argued about every conceivable thing. Anyway, I'm happy to respond to your concerns in this letter.

Regarding the payment issue, it was my clear understanding that most, if not all, of the non-computerized courts were being offered computers by their towns. As you know, when this Office began to install computers in the various courts, we did everything from this office: purchase, installation, original software, software modifications, etc. That was a policy decision made long ago, which I continued *for those courts which had this Office's computer software*. It was never my intention to incur additional expense in order to have the smaller courts obtain computers and software. In fact, I thought I made it absolutely clear that the basic premise of our dialogue was that no additional expense would be assumed by this Office or the Probate Administration Fund (which supports this Office). To permit courts to purchase this equipment with their own funds would necessarily result in smaller payments to the Probate Administration Fund. That I cannot accept, in light of the fiscal nightmare we will soon be experiencing, I would therefore encourage those judges who would like computers to request them from their municipalities. It has been often stated that towns are anxious to help their probate courts. If that is true, this would be a reasonable expenditure for them to assume.

I have spoken to Winnie about the training program. She indicated that she or Bonnie would be happy to have the regional judges come here for a training session once the other courts have finished their training. Although it was originally decided to have all the training sessions occur in this Office, Winnie concluded that it was easier to do them in the field, where problems could be immediately identified and corrected. Therefore, the time frame for the training schedule has been extended to the end of this year, not the end of this summer. Accordingly, Bonnie or Winnie may not be available for your session until somewhere around

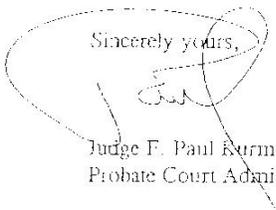
Christmas. I'm sure that you will be disappointed with this unavoidable delay, but we have no alternative.

I'd be happy to join you in a memo to the affected courts, if you like. But, it's a little awkward to speak about Judge Kurnay in the third party when the memo is coming from both of us. Aside from the delay in training (I'd say "in the winter" at the end of paragraph two and not the fall), the only other problem I had with your draft was in the last large paragraph, in which you indicated that "if the volunteer cannot solve the problem, the volunteer will speak with someone on the computer staff at the administrator's office." I had said in my prior letter in our discussions that I could *not* permit that since our "huge" staff of two people is already overloaded and could not take on any additional trouble shooting work. Therefore, if the local volunteer couldn't solve the problem, you'd have to approach either another clerk in the area or a private source. Winnie said your list of hardware was fine, except the last item, which should read, "tape back up drive *or zip drive*." (whatever in the world that is!)

If you have any other questions, please let me know. Winnie will be retiring this Friday, but Bonnie and Sue will be in to answer any other question which may arise.

Take care and best wishes.

Sincerely yours,


Judge F. Paul Kurnay
Probate Court Administrator

fpk
cc: Linda A. Dow
Winnie Scunner

APPENDIX E

Council on Probate Judicial Conduct

Council on Probate Judicial Conduct

Complaints subject to the council's purview must be brought within eight years to the date of the alleged misconduct. The council will notify the complainant and the judge of its receipt of the complaint no later than five days after it has received the complaint. The judge may file a written response with the council.

All investigations are confidential unless the judge under investigation requests that it be open. After proper notice to all interested parties, the council will determine whether or not there is probable cause that misconduct has been committed. The complainant and the judge under investigation may present any evidence or witnesses he/she wants the council to consider. The council will inform the parties whether or not it has found probable cause exists within three business days after the investigation and deliberations have been completed.

The council may appoint an attorney to serve as its legal counsel. Legal counsel manages any investigation ordered by the council, conducts the examination and cross-examination of witnesses, and presents relevant evidence to the council.

If the council finds no probable cause, but the judge's actions give the appearance of impropriety or is deemed an unfavorable judicial practice, the council may issue a private admonishment to the judge. If at least three council members find probable cause does exist, the council will hold a public hearing after 30 days of written notice to all parties.

During the public hearing, the council will hear evidence from witnesses and will make a record of all proceedings. Both the complainant and the judge under investigation have a right to be represented by counsel. After all testimony has been submitted and reviewed, the council will publish its findings, together with a memorandum of its reasons, no later than 15 days after the close of the public hearing.

The council may take a number of possible actions against a judge after its findings. The council may recommend public admonishment or public censure, private admonishment, or it may exonerate the judge. A copy of the public admonishment or public censure must be furnished to the chief justice, the chief court administrator, the probate court administrator, the president-judge of the Probate Assembly, the town clerk in each town in the probate judge's district, and the complainant. A judge may appeal to the Connecticut Supreme Court within 20 days of the council's decision.

The council may issue a private admonishment if judicial misconduct is not found but rather the judge's actions give the appearance of impropriety or constitutes an unfavorable practice. Only the judge, the complainant, and the probate court administrator are notified of a private admonishment. If exonerated, a copy of the exoneration is provided to the judge, the complainant, and the probate court administrator. If warranted, the council may also recommend the institution of impeachment proceedings to the House of Representatives of the General Assembly.

**COUNCIL ON PROBATE JUDICIAL CONDUCT
STATISTICAL SUMMARY (1994-2004)**

Year	Complaints Filed	Finding of No Probable Cause		Finding of No Probable Cause without Hearing	Unqualified Complaint	Complaint Withdrawn	Complaint Dismissed	Pending
		After Hearing	Private Admonishment After Hearing					
1994	13 ²	9 ²	3	0	0	1	-	0
1995	7	3	2	1	1	0	-	0
1996	13	8	3	0	0	2	-	0
1997	9	6	2	0	1	0	-	0
1998	11	6	3	0	0	2	-	0
1999	8	2	1	2	1	1	1	0
2000	12	8	1	0	0	1	2	0
2001	14	6	2	0	2	0	4	0
2002	16	5	3	0	2	1	1	4
2003	23	8	2	1	2	1	6	6
2004	21	8	2	0	0	2	5	9
Total	147	69	24	4	9	11	19	-

1. "Unqualified Complaint" indicates that the complainant was under conservatorship and the conservator did not join in the Complaint.

2. Two Complaints filed in 1994 were based on the same factual circumstances and were the subject of a single Hearing and Report.

2302-7974368766-1A

APPENDIX F

MEMO (December 30, 2003)

RE: New method for cost computation of decedent estates

PA95-256s



STATE OF CONNECTICUT
OFFICE OF THE
PROBATE COURT ADMINISTRATOR

JUDGE JAMES J. LAWLOR
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ATTORNEY LINDA A. DOW
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Senator Eileen M. Daily
Room 3700
Legislative Office Building
Hartford, CT. 06106

Senator Andrew J. McDonald
Room 2501
Legislative Office Building
Hartford, CT. 06106

Representative Andrea L. Stillman
Room 3703
Legislative Office Building
Hartford, CT. 06106

Representative Michael P. Lawlor
Room 2502
Legislative Office Building
Hartford, CT. 06106

December 30, 2003

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Dear Senators Daily and McDonald and Representatives Lawlor and Stillman,

C.G.S. § 45a-107a requires that the Probate Court Administrator, in consultation with the Commissioner of Revenue Services, develop a method for the determination of a gross estate for the purposes of the computation of costs for the settlement of decedents' estates for estates of decedents whose deaths occur on or after January 1, 2005.

This section was passed in the 1995 session as an integral part of Public Act 95-256, which addresses the Elimination of the Succession Tax. Public Act 95-256 provided that the tax would be eliminated on January 1, 2005. However, Section 94 of Public Act 03-01 (June 30 Special Session) postponed the remaining steps of the phase-out of the Succession tax. The tax now will not be eliminated until January 1, 2008.

I have consulted with the Commissioner and based upon this three-year delay, we feel it would be precipitous to develop a recommendation at this time. I have prepared additional comments that are attached to this letter.

89014731

C.G.S. § 45a-107a requires that the Probate Court Administrator, in consultation with the Commissioner of Revenue Services, develop a method for the determination of a gross estate for the purposes of the computation of costs for the settlement of decedents' estates for estates of decedents whose deaths occur on or after January 1, 2005.

The Probate Court Administrator and the Commissioner of Revenue Services have determined that the purpose of the directive set forth in C.G.S. § 45a-107a(a) is to provide for continued availability of revenue to meet the needs of the probate courts after the elimination of the succession tax.

Public Act 95-256 (now codified as C.G.S. § 12-344) provided that collection of the succession tax would cease as of January 1, 2005. At that time, it was believed that as a direct result revenue accruing to the probate courts would be substantially reduced.

Revenue received by the probate courts in the last several years has not been reduced. This is in part because C.G.S. § 12-344 was further amended on November 15, 2001 and again on August 16, 2003 to extend the date for the elimination of the succession tax. It presently establishes January 1, 2008 as the date on which the requirement for payment of succession tax will be entirely eliminated.

Since it was contemplated that the probate courts would experience revenue reductions as a result of the elimination of the succession tax and since the revenue reductions have not been experienced, the Probate Court Administrator proposes that the date of compliance established by C.G.S. § 45c-107a (a) be changed and that compliance be postponed to January 1, 2008. The Probate Court Administrator submits further that the direction of the charge contemplated herein be modified because the Probate Court Administrator has determined that the scope of the changes contemplated in C.G.S. § 45a-107a (a), represent only one part of a broad range of considerations involved in the economics of the operations of the probate courts in the future. The probate court system has over the last thirteen years been the subject of evaluations by the Connecticut Bar Association, the Probate Court Administrator, and various committees of the Probate Assembly. Issues considered were: income, compensation of judges, financial considerations and management of the courts, compensation of staff, and the management of courts which are unable to meet their obligations. The Probate Court Administrator believes that the report required by C.G.S. § 45a-107a(b) ought to contain the findings of the Probate Court Administrator on the status of the Probate Court system as it applies to those issues addressed and studied over the last decade. In addition, the Probate Court Administrator ought to solicit counsel from towns served by courts that are unable to meet their obligations and report his findings to the committees of cognizance.

APPENDIX G

2005 LEGISLATIVE HISTORY OF PROBATE COURT COSTS FOR SETTLING AN ESTATE

2005 LEGISLATIVE HISTORY OF PROBATE COURT COSTS FOR SETTTLING AN ESTATE

Public Act 05-251 eliminated the succession tax and gift taxes immediately instead of over several more years as required by prior law. These taxes were replaced with a uniform tax on transfers of Connecticut taxable gifts and estates that exceed a combined lifetime total of \$2 million. Under the act, Connecticut estate tax returns are required for all estates, regardless of gross value, if the decedent 1) died on or after January 1, 2005 and 2) was a Connecticut resident or owned real or personal property in the state when he or she died.

Additional changes were made in a subsequent OPM implementer (P.A. 05-3, House Bill 7502 §56) to make the affected provisions conform to Public Act 05-251. Specifically, the implementer bill changed the basis for establishing the probate court costs for settling an estate. Prior to this bill, the costs were calculated on one of three bases: 1) the gross estate for succession tax purposes, 2) the inventory, or 3) the gross estate for estate tax purposes. Under the provisions of §56, the basis for the costs would be either gross estates for succession tax purposes, the inventory, or the new Connecticut taxable estate under the Public Act 05-251, whichever was greater. The basis using gross estate for estate tax purposes was eliminated.¹⁰ These new provisions were made effective upon passage and apply to estates of those who die on or after January 1, 2005.

These provisions were amended again in Public Act 05-5 (Senate Bill 2001 §15). The act amends the OPM implementer (P.A. 05-3, House Bill 7502 §56) to reinsert the basis of gross estate for estate tax purposes into the statute. As an end result, the basis for establishing the probate court costs for settling an estate is the greater of either:

- the gross estate for succession tax purposes,
- the inventory,
- the gross estate for estate tax purposes, or
- the new Connecticut taxable estate.

¹⁰ The gross estate for estate tax purposes is the same as the gross estate under federal estate tax (C.G.S. §12-391(c)).

APPENDIX H
Fee Schedule

FEE SCHEDULE

Decedent's Estate Fees: (Effective April 1, 1998)

Based on the gross taxable estate for succession tax purposes (C.G.S. 12-349) **or** the inventory (probatable estates) **or** the gross estate for estate tax purposes (Ch. 217 and 218), whichever is greater:

PLUS all damages recovered for injuries resulting in death,
LESS hospital and medical expenses and attorney's fees and costs,
LESS 50% of any portion of the property passing to the surviving spouse.

FEE

**\$0 to \$500		\$25.00
**\$501 to \$1,000	\$50.00	
**1,000 to 10,000		\$50.00 plus .01 of all in excess of \$1,000
\$10,000 to \$500,000		\$150.00 plus .0035 of all in excess of \$10,000
\$500,000 to \$4,754,000	\$1,865.00 plus .0025 of all in excess of \$500,000	
Over \$4,754,000	\$12,500.00	

** The *minimum* fee is \$150.00 for a full probate estate with a gross taxable value of less than \$10,000.

NOTE: In estates where the gross taxable estate is less than \$600,000 in which no succession tax return is required to be filed, a probate fee of .1% shall be charged against nonsolely owned real estate, in addition to any other fees.

Conservatorships, Guardianships and Trusts: (Effective July 1, 1993)

Fee for filing an account with no hearing: \$25.00

Fee for filing accounts requiring a hearing are based on the greater of the book value, market value, or receipts:

NOTE: If more than one account is the subject of the hearing, the most recent account is used to determine the fee.

Less than \$25,000	\$50.00
\$25,000 to \$375,000	.0020 of value
Over \$375,000	\$750.00

Other Fees and Costs: (As of January 1, 1998)

[**NOTE:** Furnish without charge to the fiduciary or, if none, to the petitioner with respect to any probate matter: one uncertified copy of each decree, one certificate or one other court order setting forth the action of the court on any proceeding or matter.]

Application fee (other than decedent's estates and fiduciary accountings)	\$150.00
Each additional hearing on <i>any</i> matter	\$25.00
Hearing exceeds one hour	\$25.00/hour, after first hour (Not to exceed \$300.00)

Application by creditor for consideration of disallowed claims	\$50.00 (payable by creditor; if allowed, court may order fiduciary to reimburse the charge from the estate)
Motion for appeal	\$50.00
Continued hearing, either upon request of party or due to party's failure to appear which necessitates continuance. [Note: No charge if waived for cause shown.]	\$50.00 (plus actual cost of mailing, notices, etc.)
Each notice in excess of two on each hearing	\$2.00 each
Fiduciary Certificates (first certificate	No Charge
Additional certificates – up to 5	\$5.00
Each additional certificate (after 5 certificates)	\$1.00
Copies (up to 5 pages)	\$5.00
Additional pages	\$1.00 per page
Certified copies (for first two pages)	\$5.00
(for each page thereafter)	\$2.00
Document recording (after first 5 pages)	\$3.00 per page
Will for filing only	\$5.00
Other documents for filing only	\$25.00
Marriage waivers (C.G.S. 46b-27)	\$25.00

PROBATE COURT SYSTEM															
INCOME, EXPENSES and PROBATE ADMINISTRATION FUND BALANCE															
ITEM	ACTUAL	1998	1999	2000	2001	2002	2003	2004	2005	1 ESTIMATED	2006	2007	2008	2009	2010
Income	19,524,000	21,546,000	23,724,000	24,664,000	25,004,000	25,997,000	26,883,766	27,421,441	27,969,870	28,529,268	29,099,853	29,681,850	30,275,487	30,275,487	30,275,487
Court Receipts	725,000	786,000	1,088,000	1,395,000	714,000	399,000	177,202	174,598	156,462	124,299	78,113	0	0	0	0
Interest Income															
Total Income	\$20,249,000	\$22,332,000	\$24,812,000	\$26,059,000	\$26,718,000	\$26,396,000	\$27,060,968	\$27,596,030	\$28,126,332	\$28,653,567	\$29,177,966	\$29,681,850	\$30,275,487	\$30,275,487	\$30,275,487
Expenses															
Staff Salaries - Courts	6,201,000	6,584,000	6,940,000	7,366,000	7,780,000	8,256,000	8,625,793	8,884,567	9,151,104	9,608,659	10,089,092	10,593,547	11,123,224	11,123,224	11,123,224
Other Court Expenses	1,989,000	2,157,000	2,160,000	2,256,000	2,302,000	2,498,000	2,293,404	2,362,206	2,382,206	2,433,072	2,506,064	2,581,246	2,658,694	2,738,444	2,738,444
Judges' Compensation	4,893,000	5,559,000	5,909,000	6,195,000	6,518,000	6,439,000	6,602,028	6,965,140	7,348,222	7,762,374	8,178,755	8,628,587	9,103,159	9,103,159	9,103,159
Medical Ins. - Actives	1,277,000	1,131,000	1,491,000	1,583,000	1,792,000	2,028,000	2,308,900	2,616,279	3,019,921	3,382,312	3,788,189	4,242,772	4,751,904	4,751,904	4,751,904
Medical Ins. - Retirees	570,000	587,000	979,000	991,000	1,131,000	1,369,000	1,704,662	2,555,813	3,227,951	3,607,306	4,280,182	5,000,438	5,859,232	5,859,232	5,859,232
Indigent Services	0	641,541	742,954	814,622	1,054,393	1,515,236	1,794,552	2,740,848	3,175,000	3,175,000	3,333,750	3,500,438	3,675,459	3,859,232	3,859,232
Other PAF Expenses	3,069,000	2,170,459	2,282,046	2,470,378	2,666,607	2,858,764	2,895,784	3,283,811	3,887,365	4,081,733	4,285,820	4,500,111	4,500,111	4,500,111	4,725,116
Total Expenses	\$17,999,000	\$18,830,000	\$20,504,000	\$21,656,000	\$23,250,000	\$24,964,000	\$26,225,123	\$29,408,653	\$31,342,636	\$33,272,198	\$35,343,722	\$37,569,763	\$39,964,156	\$39,964,156	\$39,964,156
Surplus/(Deficit)	\$2,250,000	\$3,502,000	\$4,308,000	\$4,403,000	\$3,468,000	\$1,392,000	\$835,845	(\$1,812,624)	(\$3,216,303)	(\$4,618,632)	(\$6,165,756)	(\$7,887,913)	(\$9,688,670)	(\$9,688,670)	(\$9,688,670)
Beginning PAF Balance		15,550,000	19,052,000	23,360,000	27,763,000	30,231,000	16,623,000	17,458,845	15,646,211	12,429,908	7,811,276	1,645,520	6,242,393	6,242,393	6,242,393
Increase/(Decrease)		3,502,000	4,308,000	4,403,000	2,468,000	1,392,000	835,845	(1,812,624)	(3,216,303)	(4,618,632)	(6,165,756)	(7,887,913)	(9,688,670)	(9,688,670)	(9,688,670)
Transfer to General Fund		0	0	0	0	(15,000,000)	0	0	0	0	0	0	0	0	0
Ending PAF Balance		\$19,052,000	\$23,360,000	\$27,763,000	\$30,231,000	\$16,623,000	\$17,458,845	\$15,646,211	\$12,429,908	\$7,811,276	\$1,645,520	(\$6,242,393)	(\$15,931,062)	(\$15,931,062)	(\$15,931,062)
Probate Court Income and Expenses are on a Calendar Year and PAF expenses are on a Fiscal Year.															
Notes:															
1 - Year 2005 has actual expenses for the PAF and estimated expenses for the Probate Courts.															
Retirees Health Insurance cost for 2005 includes a payment of \$ 477,285 for underpayment of prior years health insurance.															
Assumptions:															
Gross Receipts increase at a rate of 2% annually.															
Interest Income equates 1% of prior years ending fund balance.															
Court Staff Salaries increase at a rate of 3% annually.															
Other Court Expenses increase at a rate of 3% annually.															
Judges Compensation increases by 5.5% annually															
Revised 11/28/05															
Source: Office of the Probate Court Administrator															

APPENDIX J

Probate Court Districts Grouped by Population of the District					
<i>Largest 20 Districts</i>	<i>21 - 40</i>	<i>41 - 60</i>	<i>61 - 80</i>	<i>81 - 100</i>	<i>Smallest 23 Districts</i>
1	2	3	4	5	6
Berlin	Cheshire	Bloomfield	Andover	Brooklyn	Ashford
Bridgeport	Derby	Branford	Avon	Burlington	Bethany
Bristol	East Hartford	Colchester	Bethel	Canton	Bozrah
Danbury	East Windsor	Darien	Brookfield	East Haddam	Canaan
Fairfield	Ellington	East Haven	Clinton	Essex	Cornwall
Greenwich	Enfield	Farmington	East Hampton	Granby	Deep River
Hamden	Glastonbury	Guilford	East Lyme	Griswold	East Granby
Hartford	Groton	Madison	Killingly	Haddam	Eastford
Manchester	Mansfield	Montville	Ledyard	Hebron	Hampton
Meriden	Naugatuck	New Canaan	Litchfield	Old Lyme	Harwinton
Middletown	New London	Newtown	New Fairfield	Old Saybrook	Kent
Milford	New Milford	No. Haven	New Hartford	Oxford	Killingworth
New Haven	Norwich	Plainfield	No. Branford	Portland	Lyme
Newington	Shelton	Ridgefield	Orange	Putnam	Marlborough
Norwalk	Southington	Simsbury	Plainville	Redding	No. Stonington
Stamford	Stratford	Southbury	Plymouth	Thomaston	Norfolk
Trumbull	Torrington	Stafford	Stonington	Thompson	Pomfret
Waterbury	Wallingford	Tolland	Suffield	Westbrook	Roxbury
West Hartford	Westport	Windham	Winchester	Woodbridge	Salem
West Haven	Woodbury	Windsor	Windsor Locks	Woodstock	Salisbury
					Saybrook
					Sharon
					Washington

Probate Court Administration Fund

The legislature established the probate court administration fund in 1967. The state treasurer is the fund custodian. The primary revenue source for the probate fund is the assessments paid by the probate courts. State law provides that the treasurer, upon the comptroller's request, may draw upon monies of the General Fund if the probate administration fund is at any time insufficient to cover its charges. Any monies from the General Fund must be repaid when the probate administration fund is solvent. To date, this has not occurred.

Budget review. By April 1 of each year, the probate court administrator must prepare a proposed budget for the next fiscal year outlining the necessary expenditures from the probate fund to carry out his duties. The administrator must submit the proposed budget to the executive committee of the Probate Assembly for review. The committee must return it no later than May 1 with its comments and recommendations. The administrator must then prepare a proposed final budget, including whatever changes recommended by the executive committee the administrator deems appropriate.

By May 15 annually, the administrator must send the final budget, with the executive committee's comments and recommendations, to the chief court administrator of the Judicial Department for review. The chief court administrator must take action on the budget by June 15. If he fails to act by that time, the budget is deemed approved.

The probate administrator may request authority from the chief court administrator to spend additional money from the fund to respond to any matter that could not have been reasonably anticipated in the regular budget process. A copy of such requests must be delivered to the president judge of the Probate Assembly. If the chief court administrator fails to act on such a request within 21 days, it is deemed approved.

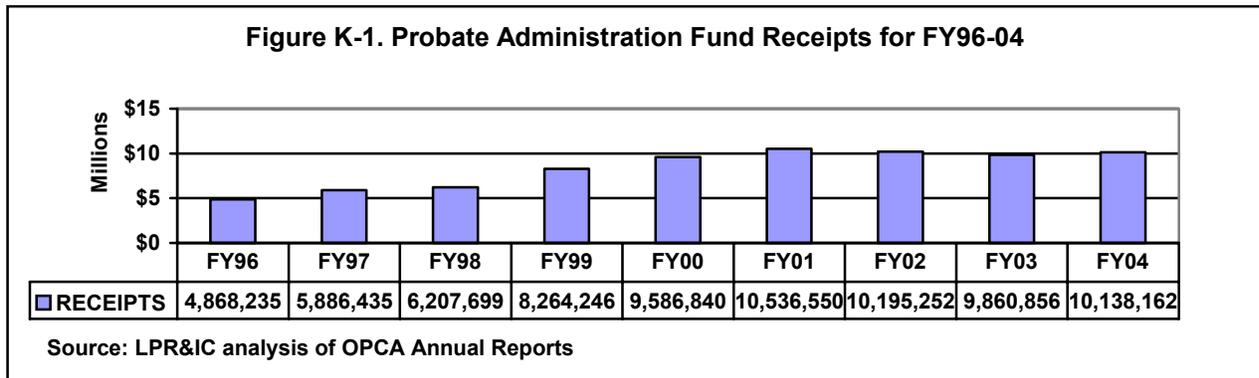
The probate court administrator may authorize additional expenditures from the probate court administration fund for emergency purposes as necessary, up to \$5,000 in the aggregate for any one fiscal year. A report on each such expenditure must be sent to the chief court administrator and the president judge of the Probate Assembly within 10 days after the expenditure is made.

The probate court administrator's budget proposal for FY05-06 was submitted to the executive committee of the Probate Assembly on March 31, 2005. However, the May 1 deadline passed without comment.

Revenue and Expenditure Trends of the Probate Administration Fund

Revenues. In addition to the revenues from assessments paid by each individual probate court, the probate fund also receives interest income, proceeds of sales of the probate practice

book, and health insurance payments made by the probate judges and employees. Figure K-1 shows the fund receipts for nine fiscal years.



As the figure shows, total fund receipts increased over 100 percent from FY96 to FY01. Thereafter, the fund experienced a decrease in receipts until FY03. A loss of interest income appears to have contributed to the decline in receipts during this time. In FY01, interest income totaled almost \$1.4 million. By FY03, interest receipts dropped to slightly under \$400,000. Total fund revenue began to rise again in FY04.

Expenditures. The fund is statutorily required to pay for a variety of expenditures for the operation of the Office of the Probate Court Administrator and for services provided to the probate district courts. Table K-1 details fund expenditures for FY 04.

As the table shows, the operating costs of the office of the probate court administrator includes items such as staff salaries and fringe benefits, building maintenance, rental storage for probate records, furnishings, computers, computer maintenance, office supplies and other office related functions. The fund also pays for:

- publication and distribution of probate court forms, pamphlets, practice book, and clerk’s manual;
- educational programs for probate judges and personnel;
- administrative and actuarial expenses for the probate judges and employees retirement fund; and
- expenses of the Council on Probate Judicial Conduct.

Additional fund expenditures for services provided to the probate district courts include:

- a portion of the health insurance coverage for active and retired probate judges and employees;
- the purchase and maintenance of computer equipment for the computerized courts;

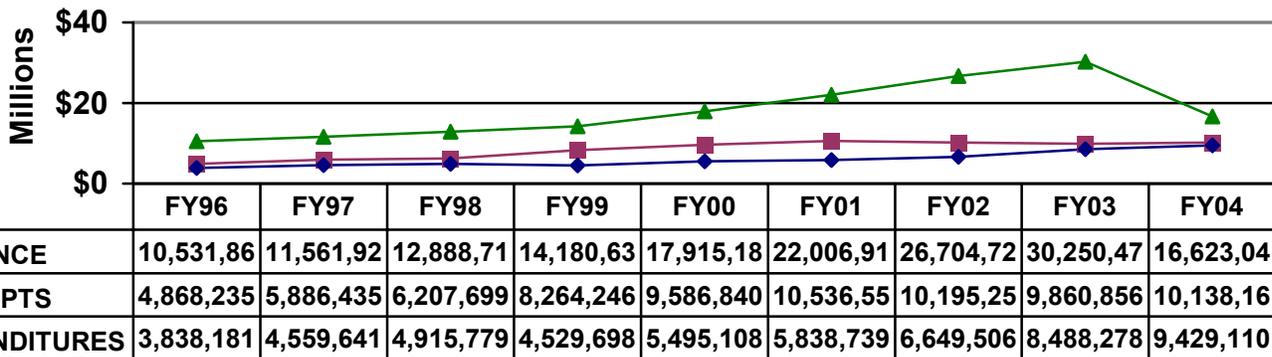
- revenue refunds owed to the courts as result of re-computation of assessments;
- temporary subsidies to courts having financial difficulties;
- reimbursement to the probate courts for waivers of application fees granted to indigent persons; and
- payment of conservators and attorneys who represent indigent persons in probate court proceedings.

In FY 2004, the fund also paid for certain costs associated with the New Haven regional children's probate court, the pilot program in Waterbury (Melissa's Project), and the 2003 study conducted by Casey Family Services. Program review staff will provide further expenditure analysis in the findings and recommendations report.

Table K-1. Probate Court Administration Fund Expenditures for FY 04	
Operating expenses for the Office of the Probate Court Administrator	
Personal Services & Fringe benefits	1,352,708
Contractual staff & temporary help	119,190
Data processing for administrator's office	229,417
Storage, building repairs & maintenance	72,639
Telephone, office supplies & equipment (copier/fax)	48,069
Printing & postage	45,019
Judge/Staff education & seminars	29,534
Misc. Costs: dues, travel expense, sundry	34,431
Administrative expense for retirement fund	28,683
Council on Probate Judicial Conduct	63,441
Other expenses to fund*	223,313
Expenses for probate district courts	
Health insurance – courts	3,034,112
Health insurance – retired	1,704,662
Revenue refunds	19,785
Court subsidies	130,784
Computer equipment and maintenance for courts	209,526
Entry fee reimbursements	481,550
Court appointed counsel – Indigents	1,078,151
Conservators for indigents	166,737
Other outside professional fees (marshals)	68,114
New Haven Pilot – Children's Court	169,755
West Haven Pilot – Casey Family Services	40,000
Waterbury Pilot – Melissa's Project	79,492
TOTAL FUND EXPENSES	\$ 9,429,110
*Incurred for implementation of CORE. The fund was reimbursed for these expenses.	
Source: Office of the Probate Court Administrator	

Fund balance. Figure K-2 presents the probate fund balance in relation to the receipts and expenditures for a nine-year timeframe. During the late 1990s, the probate fund balance steadily grew from \$10.5 million in FY 96 to a peak of over \$30 million in FY 03. During this same time period, fund receipts have been consistently greater than fund expenditures. The figure shows fund disbursements remained under \$5 million between FY 96 through FY 99. Disbursements began to increase in FY 00 through FY 02 in part due to the higher cost of health insurance for retired judges and staff. In FY 04, the fund balance was cut in half when the legislature transferred \$15 million into the General Fund. Excluding the \$15 million transfer to the General fund, disbursements from the probate administration fund have more than doubled during this timeframe. In FY 04, the fund balance continued to be solvent although the receipts and expenditures were closer. As of June 30, 2004, the fund balance was \$17,332,009.

Figure K-2. Probate Fund Balance for FY96-04

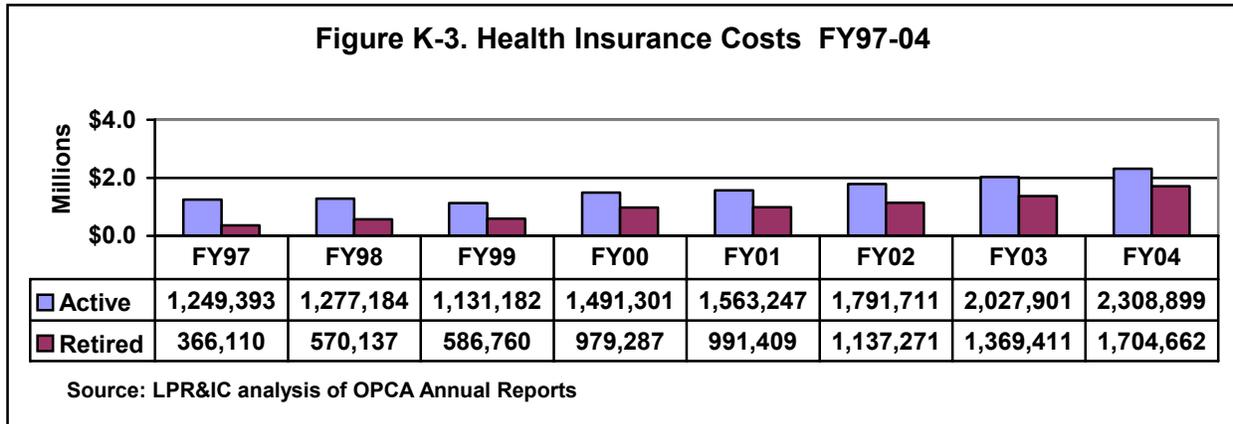


Source: LPR&IC analysis of OPCA Annual Reports

Health insurance. As noted above, the probate administration fund is responsible for a portion of the health insurance costs for probate judges and staff. C.G.S. §5-259(g) requires the probate court administration fund to pay the entire premium for the individual coverage of the probate judges and employees and 50 percent of the premium for other forms of coverage provided through authorized health insurance plans.¹¹ The probate judge or employee must pay the remainder of the premium to the state treasurer. The payment is credited to the probate court administration fund. The probate court administrator remits the total premiums payable directly to the insurance company or companies providing the coverage. These benefits apply to probate employees working for at least 20 hours per week. The probate administration fund also contributes to the health insurance expenses for retired probate judges and staff.

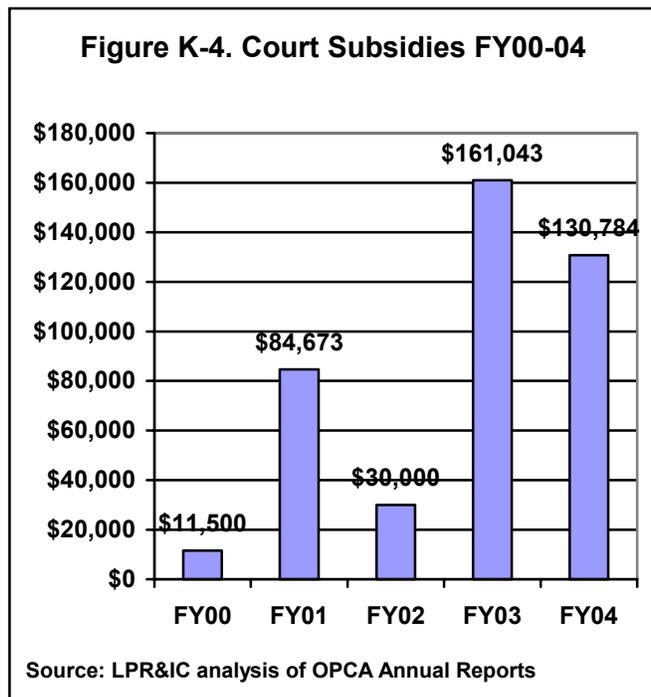
¹¹ The fund will not pay more than the percentage of the premium that is paid by the state of Connecticut for its employees and dependents pursuant to a schedule promulgated by the Office of the State Comptroller.

Figure K-3 shows the health insurance costs for active and retired probate judges and staff paid out of the fund for FY97 through FY04. As the figure shows, health insurance costs have risen in recent years. From FY97 to FY04, health insurance costs for active judges and probate staff increased 84 percent going from \$1,249,393 to \$2,308,899. Since FY01, the insurance costs for active judges and staff have shown an average annual increase of 14 percent.



Health insurance costs for retired probate judges and employees have also increased steadily. From FY97 to FY04, health insurance expenditures for retired probate staff more than tripled. By FY00, the costs had already more than doubled from FY97. Since that time, the health insurance expenses for retired employees have continually increased each year from 1 percent in FY01; 15 percent in FY02; 20 percent in FY03; to 24 percent in FY04.

Court subsidies. The probate fund grants operating subsidies to courts in need. A probate judge may submit a written request for assistance to the probate administrator. The request must include the actual gross receipts and itemized expenses of the judge’s court, the amount requested, and the reasons assistance is needed. Upon the determination that the court’s income is insufficient to meet its’ reasonable and necessary expenses, the probate administrator may approve payment from the probate fund. Figure K-4 details the subsidies granted since FY00. Subsidies have been granted in varying amount between FY00 and FY04. Bridgeport has received an temporary funding every year. Ellington and West Haven have also needed funding in multiple years.



Indigent payments. Another cost charged to the probate fund is for indigent payments. The fund makes payments to attorneys who represent indigent persons in probate matters; reimburses courts for entry fees that are waived in indigent cases; provides payments to conservators appointed to indigent individuals; and covers other professional costs associated with these cases such as marshals and newspaper notices.

The responsibility for these payments were previously carried by the General Fund but was transferred to the probate fund in 1996. State law still allows funds from the judicial department to be used to pay the costs for indigent services, but the probate fund must cover expenses if there are no appropriated funds to the Judicial Department for this purpose. In 1999 and 2000, \$500,000 from the General fund was provided for these costs. However, due to the large balance in the probate fund, the appropriation was eliminated completely in subsequent budget proposals.

Table K-2 gives the costs for indigent cases since FY00. The total cost for indigent cases have more than doubled since FY00. During this time period, the amount of fee waivers has almost doubled while the costs for counsel fees and other professional services have experienced the greatest growth almost tripling.

Table K-2. Costs for Indigent Cases					
	FY00	FY01	FY02	FY03	FY04
Counsel Fees	\$390,525	\$429,063	\$560,712	\$859,193	\$1,078,151
Fee Waivers	\$243,370	\$272,750	\$362,900	\$471,150	\$481,550
Conservator	\$109,059	\$112,809	\$130,781	\$117,823	\$166,737
Other Professional	\$17,844	\$26,918	\$51,256	\$67,071	\$68,114
TOTAL	\$760,798	\$841,540	\$1,105,649	\$1,515,237	\$1,794,552
Source: LPR&IC analysis of OPCA Annual Reports					

Prior Reports on Probate Court System

Over the years, several studies have been done on the Connecticut probate court system. In the 1940s, the legislature created a number of commissions to review various aspects of the judicial system including the probate courts. The reports resulted in either calls for further study of issues and/or made recommendations to change certain aspects of the probate system. (A list and the results of these reports are provided in Table L-1.)

Additional studies continued into the 1950s and 60s with proposals for restructuring the system. In 1970, the then probate court administrator commissioned a report to provide information for the potential reassessment of the system. While some changes resulted from these studies, the probate court system retained much of its administrative and financial autonomy without any major reconfiguration.

Three additional reports on the probate system were completed in the 1990s. One report did an economic assessment of the viability of the probate system. It concluded that the system “as currently structured and currently financed works well in purely economic terms”.¹² Another legislative task force reported high levels of satisfaction with the existing system but recommended minimum standards for court operations. In 1996, a committee of the Probate Assembly made several recommendations regarding the operations of the courts including court consolidation based on population. The assembly adopted several of the operational changes but rejected the consolidation proposal.

Since 2000, four more studies have examined the probate system. In 2002, the Probate Assembly again convened a committee upon the request of the Speaker of the House of Representatives. The committee made several recommendations including:

- requiring courts to be open full time;
- requiring probate judges to be attorneys but, grandfathering in existing judges;
- adjusting judges’ compensation; and
- consolidating and reconfiguring probate districts to serve a minimum population of 35,000 with a weighted workload of 2,000.

The Probate Assembly rejected the committee’s proposals by a vote of 65 to 37.

During this same period, the Connecticut Bar Association convened its own taskforce to recommend improvements to the probate system. The taskforce report discussed several strengths and weaknesses of the system including:

- convenient public access;

¹² Charles J. Stokes, Connecticut Probate Courts in the 1990’s; Viability, Change and Efficiency (1990) p.65

- quick handling of matters;
- informal nature of dispute resolution;
- lack of training of some judges; and
- inequalities in court facilities and judges' compensation.

The taskforce also recommended additional authority for the probate administrator and suggested consolidation of probate districts to serve a population minimum of 30,000 to 50,000. The Connecticut Bar Association never formally adopted the taskforce report.

In 2002, the current probate administrator ordered an examination of the handling of children's matters within the probate courts. Casey Family Services, which conducted the study, recommended the creation of a regional children's probate court. The study also suggested additional training for judges and consolidation of probate districts without noting a specific number or parameters.

2004 Reorganization Plan

In his remarks to the Probate Assembly at the April 2004 annual meeting, the chief justice stated the probate courts had not been efficient in the management of court business given the expectation of a worsening financial situation. He then directed the probate court administrator to develop and submit a reorganization plan on October 1, 2004.

The original plan imposed a tiered approach on the existing system. Districts with populations of more than 50,000 would be "urban" courts continuing to operate as they normally do. Districts with populations less than 50,000 would be "local" courts handling all routine and administrative matters. However, a trial judge from the urban probate court would hear any contested matters. In addition, some probate courts would be designated as "specialty" courts to handle children's matters, mental health issues, or other specialized cases.

The administrator's office would pay for the courts' operating expenses from the revenues generated by the system. Each town of a local court would be required to pay \$4 times its population. The administrator's office would pay the lesser of either \$2 multiplied by the population or one-half the amount actually paid by the town. A subsequent amendment to the plan allowed districts with five or more towns and a minimum population of 10,000 to be fully financed by the administrator's office.

State law would establish compensation for urban and local judges while the compensation for specialty and trial judges would be determined by contract. Judges of the specialty and trial courts would be required to be attorneys. However, local probate judges would not have such a requirement.

The chief justice accepted the administrator's plan. However, the Probate Assembly rejected the proposal in a resolution vote of 35 to 28 on November 3, 2004. Among its reasons the Probate Assembly noted:

- the projected financial deficits had not occurred as predicted by the administrator's office as such they believed the system's financial condition to be sound;
- the administrator's plan seems to favor urban courts and discriminates against local courts and improperly shifts costs to the local towns; and
- cost savings from the plan would not be realized if used to establish new bureaucracy and specialized courts.

The plan was modified upon the request of the chief justice and the probate administrator was authorized in December 2004 to draft legislation based on the plan. According to the probate administrator, the changes were made in response to issues raised by the probate judges. The Probate Assembly reconsidered the modified plan on March 30, 2005. The assembly supported the administrator's revised proposal by a vote of 60 to 46. The administrator's most recent plan proposed:

- Probate judges continue to be elected as prescribed by existing state law.
- The number of probate districts would remain the same - 123 districts. Districts with populations of less than 45,000 would be "local" probate courts. Districts having populations of 45,000 or more would be "urban" probate courts.
- New specialty courts would be established to handle children's matters and other matters requiring special facilities or specialized training for the judge and staff.
- There would be eight regional courts.
- The probate administrator would select a group of elected and retired judges demonstrating special expertise in various capacities. The chief justice would then designate special assignment probate judge status on individuals from this group. These judges would have all the powers and jurisdiction of elected judges and handle matters as assigned by the probate court administrator.
- All revenue generated by the courts would be deposited into the probate court administration fund.
- All salaries and operating expenses for the urban, local (including any probate court serving five or more towns having a combined population of 10,000 or more), regional, and specialty probate courts would be paid through the Office of the Probate Administrator from the probate court administration fund.
- With the exception of districts serving five or more towns, local probate courts would have fixed budgets equal to five times the population of the district, indexed for inflation, or total gross receipts, whichever is less.

- The state General Fund would assume responsibility of health insurance expenses starting in fiscal year 2007-2008.

The administrator's plan was drafted into legislation as Senate Bill 1198 for the 2005 legislative session. A public hearing was held on March 13, 2005, producing testimony from various interested parties opposing and supporting the bill. On April 14, 2005, the Judiciary Committee adopted a substitute version of the bill eliminating all the original provisions and replacing it with a requirement that the probate administrator develop uniform standards for probate court personnel regarding hiring, training, and salaries and submit the standards for legislative review. The committee favorably reported the substitute bill to the Senate floor. Ultimately, the bill died in the Senate without discussion.

Table L-1. Prior Reports on the Probate Court System	
Study	Proposals and Outcomes Regarding Reorganization
Commission to Study the Integration of the Judicial System (1943)	Called for court consolidation to 40 to 50 districts. Recommended a new commission to further study the issue.
Commission to Study the Probate Courts (1945)	Recommended the existing system continue without integration into the state court system. Resulted in the constitutional amendment to increase the term of probate judges to four years and required judges to pay a portion of their net income as an assessment.
Commission on State Government Organization (1949 & 1950)	Proposed a unified court system with a probate division of the Superior court. Twenty full-time salaried and appointed judges statewide to be scheduled as needed on a county basis with a sufficient number of clerks and registrars in various places throughout the counties.
Commission to Study and Report on a Revision of the Probate Laws of the State (1969)	Primarily a study of probate law, this report led to an examination of the court structure. Suggested a two-tier system with routine matters administered by lower tier court staff and another tier for formal adjudication of issues. Recommended probate judges not be elected but required to be attorneys. Suggested a general reduction in number of probate judges and having fees deposited into the state's general funds.
Whitman Report (1970)	Prepared at the probate administrator's request, made no recommendations but identified the strengths and weaknesses of the existing system.
Stokes Report (1990)	Conducted by economist Charles Stokes, the report found the number and size of courts as well as the fulltime or part-time status of judges did not affect the economic viability of the system.
Taskforce to Study the Probate Court System (1991)	Made several suggestions regarding establishing minimum standards, expanding court jurisdiction, changing fee schedule, training for newly elected judges, and giving health insurance to court personnel. Report also promoted town choice in maintaining a probate court.
Long Range Planning Committee of the Probate Assembly (1996 & 2002)	First report endorsed enhanced retirement benefits to judges from districts consolidating voluntarily. Among other changes, the report proposed the number of probate courts be reduced to 74 serving a population minimum of 20,000 with a minimum workload of 300. The second report recommended several operational changes and redistricting based on populations of at least 35,000 with weighted workload of 2,000.
Connecticut Bar Association Task Force on the Future of the Probate Court System (2003)	Outlined the strengths and weaknesses of the system. Suggested several operational changes regarding court facilities, hours, qualifications, training, level of professionalism, and proposed reorganization of districts based on populations serving a minimum of 30,000 to 50,000.
Casey Study (2003)	Authorized by the probate administrator, study primary focus was the handling of children's matter. Resulted in the establishment of the children's regional probate court and suggested additional training for judges and consolidation of courts.
Probate Administrator's Plan (2004 & 2005)	Requested by the chief justice, report outlined reorganization plan using a tiered system based on population limits for urban and local courts. Created additional specialty courts and redirected court financing through the probate administrator's office. Subsequent plan revision also had health care expenses for probate court system paid through the state's General Fund.
Source: "Probate Reform in Connecticut – A Historical Perspective", draft article to Connecticut Bar Journal prepared by Thomas E. Gaffey, assistant to the probate court administrator. (2005)	

APPENDIX M
Agency Response



STATE OF CONNECTICUT
OFFICE OF THE
PROBATE COURT ADMINISTRATOR

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February 17, 2006

Carrie E. Vibert
Director
Legislative Program Review and Investigations Committee
State Capitol
Room 506
Hartford, CT 06106

Dear Carrie:

In a period of less than six months, the Program Review and Investigations Committee Staff has evaluated and characterized the probate court system. As Probate Court Administrator, I am in general agreement with the report's findings, but with three reservations.

First, the report addresses the financial condition of the system in Table IV-2 in which the chart shows expenses for past years and projects the future performance of the system. The report is inaccurate in reporting performances in 2004 and 2005. In 2004 (see Exhibit A), it states that expenses are \$8,703,898. In fact, the expenses are \$9,429,111 because an expense item "health insurance reimbursements" for \$725,213 is omitted. The net balance would be \$17,332,099.

In 2005 (see Exhibit A), it states that expenses are \$11,196,751. In fact, the expenses are \$12,499,971 because expense items "health insurance reimbursements" for \$835,330 and "other miscellaneous expense reimbursements" for \$467,890 were omitted. The carry forward from 2004 should be adjusted as well. The net balance would be \$16,904,345. The amounts have been properly included in the Administrator's Annual Reports (Exhibit B and Exhibit C). The combined effect of including these expenditures will result in a loss of two million dollars to the system in 2005 with resulting increased losses in years to follow. In fact, early estimated unaudited

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performance results for 2005 show that losses will be sustained in substantially the amounts set out above.

Second, the report recommends a more limited role for the Probate Court Administrator. Prior to 1968 the probate courts were independent and subject to no oversight or supervision. The legislature was concerned about several issues. A review of the legislative history at that time shows that the issues and conditions today are not unlike those which were before the legislature then. At that time, the legislature established the Office of the Probate Court Administrator to create structure and to supervise the individual judges.

Establishing a partnership between the Probate Court Administrator and the judges will result in less supervision and make the possibility of resolving current problems less likely.

The Probate Court Administrator is responsible to the Chief Justice for general direction and to the Chief Court Administrator regarding financial issues. In addition, the Probate Court Administrator responds to the legislature through informal reporting and attendance at hearings. The Probate Assembly is as it was in 1967. It is responsible to no one.

To establish a partnership between the Probate Court Administrator and the Assembly will give the Probate Court Administrator an impossible charge – to manage the administration of an organization whose members are partners with the Probate Court Administrator as manager. The Probate Court Administrator's responsibility for performance will be dictated by the Chief Justice of the Supreme Court, but the probate judges will have no such charge.

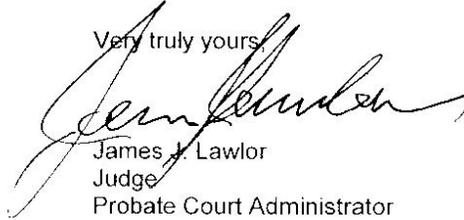
Third, the Probate Court Administrator's budget has been fixed at an amount not greater than the growth in the Probate Court Administration Fund. This raises two problems:

1. There are no provisions made for losses or reductions in the Fund.
2. It establishes a spending standard that is imposed indirectly on the Chief Court Administrator. Since the Chief Court Administrator is responsible for the financial management and supervision of the Probate Court Administrator's budget, control becomes fixed in the Judicial Department. The elements that are proposed by Program Review would shift ultimate control from the Judicial Department to the legislature. Since responsibility for performance rests in the Judicial Department, the legislature should not interfere with the rights, responsibilities and duties of that branch.

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The staff of the Program Review and Investigations Committee has done a remarkable job in producing an evaluation which is both fair and accurate. The staff considered the many facets of a complex institution and provided a report that describes the probate courts as an entity. The report ought to be relied upon by others in addressing the problems which we face.

Very truly yours,

A handwritten signature in black ink, appearing to read "James J. Lawlor", written in a cursive style.

James J. Lawlor
Judge
Probate Court Administrator

JJL:sd

Enclosures