

Testimony of:

**Deborah M. Pearl**  
**Judge of Probate, District of Essex**

before the

**Judiciary Committee**  
**of the Connecticut General Assembly**

hearing on

**Bill No. 5598**  
**AN ACT CONCERNING ADMINISTRATION OF**  
**THE COURT OF PROBATE**

**Bill No. 431**  
**AN ACT CONCERNING RETIRMENT OF PROBATE**  
**JUDGES AND EMPLOYEES, THE FEES OF THE**  
**PROBATE COURT SYSTEM AND PROBATE COURT**  
**JURISDICTION OF APPLICATION FOR**  
**VOLUNTARY OR INVOLUNTARY**  
**REPRESENTATION OF A PERSON ADMITTED TO A**  
**HOSPITAL**

**March 17, 2006**

Senator MacDonald, Representative Lawlor, members of the Committee. Thank you for the opportunity to present written testimony on the two proposed Probate Bills 5598 and 431.

I am the judge of the Probate Court for the District of Essex. I oppose Bill #5598 **AN ACT CONCERNING ADMINISTRATION OF THE COURT OF PROBATE**

and Bill# 431 **AN ACT CONCERNING RETIRMENT OF PROBATE JUDGES AND EMPLOYEES, THE FEES OF THE PROBATE COURT SYSTEM AND PROBATE COURT JURISDICTION OF APPLICATION FOR VOLUNTARY OR INVOLUNTARY REPRESENTATION OF A PERSON ADMITTED TO A HOSPITAL**

### **RAISED BILL 5598**

I object to this bill in its entirety. The bipartisan Legislative Program Review and Investigations Committee spent an enormous amount of time and effort in their committee thoroughly studying the Connecticut Probate Court System and have made their recommendations clear in Bill #5391. Bill# 5598 is the exact opposite of Bill#5391.

This bill is discriminatory and unnecessary. It is nothing more than a ploy to force small local courts to consolidate.

The Program Review and Investigations Committee has put forth a fair, reasonable and responsible piece of legislation that deals with probate court administration issues in Bill #5391.

Specific comments:

Section 1.

(a) directs that *courts of probate shall be open to the public for business not less than hours each day, Mon thru Fri between 8:00AM and 5PM*. Most courts of probate are in town halls. Most town hall offices are open only until 4PM. In small local towns town halls and probate courts have hours which are necessary and requested by the citizens. For example: **Hampton** town offices, **population 1,912**, are open 9:00AM to 4:00PM Tuesday and Thursday. On Thursday evening hours 6:00PM to 8:00PM: **Griswold** town offices, **population 11,087** 8:30AM to 4:PM Monday through Wednesday, 8:30 AM to 6:30PM Thursday and Friday 8:30AM to 1:30PM. **Brooklyn** town offices, **population 7,487** is open 9:00AM to 4:30PM Monday through Wednesday, 9:00AM to 6:00PM Thursday and 9:00AM to 1:00PM on Friday. It is a burden, not only on the court but also the town to require these courts and others like them to conform to opening full time when it simply is not necessary or what the populations of individual towns need. Who is it going to benefit?

(b) It is discrimination to force a small local court to hire a clerk when the judge is capable and willing to perform all the necessary duties of that court. This is a wasteful

provision. This will not benefit the citizens served by that court. This provision will place an unnecessary financial burden on the Probate Court Administration Fund for health insurance benefits; place a burden on the small local court to pay an unnecessary salary.

Section 5. allows the Probate Court Administrator to reassign a probate court case involuntarily from the court without first going through an investigation, notice to the judge or hearing to determine whether it is absolutely necessary to go to such extreme measures.

Section 7. Switches the power to hire employees and pay employees of the probate courts from the local level to the Probate Court Administrator and the fund. The PCA is totally unfamiliar with local customs, needs and requirement of the probate courts. The judges intimately know their towns and what they need to make their courts run efficiently and successfully. The payment of salaries of court employees should stay with the individual probate courts. The Probate Court Administrator has not shown fiscal responsibility as demonstrated in the budget process within the administrator office and the lack of budgeting in the Children's Court.

#### **RAISED BILL 431**

Section 1. Probate Judges should not be rewarded for consolidating their courts. Probate judges should not be making the decision to consolidate their courts based upon financial gain.

Section 2. The Probate Assembly did endorse a portion of these proposed modifications. They did not endorse excluding tangible personal property (cars, art works, jewelry) located out of Connecticut which have traditionally been used as a basis for calculating fees. Life insurance has always been the basis for calculations in all estates that were large enough to be subject to the Federal Estate Tax. Removing the language dealing with tangible personal property and leave exclusion of the life insurance, the mortgage indebtedness and out of state real estate is fair.

Respectfully Submitted,

Hon. Deborah M. Pearl

# OFFICE OF THE PROBATE COURT ADMINISTRATOR

## MINIMUM STANDARDS FOR PROBATE JUDGES

The Connecticut Probate Assembly has adopted, and the Probate Court Administrator has approved, the following statement of Minimum Standards for the Office of Judge of Probate.

1. The Code of Probate Judicial Conduct as adopted by the Probate Assembly and the Probate Court Administrator is binding on all judges. Adherence to the Code is the responsibility of each judge. If a probate judge has any question about the meaning or application of a Canon, the probate judge should request an opinion from the Advance Ruling Committee.
2. The primary responsibility and duty of each individual elected to the office of judge of probate is to the court.
3. The probate judge for each district must be reasonably available at all times. Each judge of probate shall designate two stand-by probate judges who shall be empowered by the Probate Court Administrator to act in the event of the absence of or the inability of the probate judge of said district "to act". Notice of such stand-by judges should be filed with one or more of the following: the town's chief executive officer, the town clerk, the police chief and/or the resident state trooper of each town in the probate district. Consideration should be given to notifying any general hospital ordinarily used by residents of the district.
4. Stand-by judges are primarily for emergency situations. Therefore, when any probate judge intends to be absent from the probate district for a period greater than 72 hours and is beyond communication with his staff, the Probate Court Administrator should be requested to cite in a substitute judge. The substitute judge may be one of the stand-by judges.
5. In accordance with the Code of Probate Judicial Conduct, each probate judge shall designate reasonable times for probate hearings and render all probate decisions promptly. Promptly is hereby defined to mean no more than sixty days from the close of the final hearing and filing of all appropriate legal documents, unless unusual circumstances require a longer period of time.
6. Each probate judge must avail himself/herself of continuing education in the field of Connecticut probate law. The probate judge must be able to substantiate by conclusive evidence that continued and upgraded educational requirements are met. Attendance at seminars conducted by the Probate Court Administrator and/or Probate Assembly is evidence of upgrading education. Attendance at regular or special meetings of the Probate Assembly is also considered continuing education.
7. In order to render the proper service to the public, each probate judge shall maintain the necessary court personnel. Careful observance of the Code of Probate Judicial Conduct is required.
8. All appropriate probate documents must be recorded and, unless excluded by statute, available to the public on a reasonable basis. The recording of documents must be maintained in an orderly and timely manner.
9. Each probate judge shall operate the court with uniformity in relation to the probate system of the State of Connecticut and must make every reasonable effort to comply with the rules, regulations and canons. Failure to observe the rules and regulations will be sufficient grounds for the Probate Court Administrator to cite said probate judge before the Council on Probate Judicial Conduct for appropriate action.

State of Connecticut  
Office of the Probate Court Administrator

REQUEST FOR CITATION OF STAND-BY JUDGES

TO: PROBATE COURT ADMINISTRATOR

FROM: PROBATE COURT, DISTRICT OF \_\_\_\_\_

In accordance with the Minimum Standards for Probate Judges adopted by the Connecticut Probate Assembly and approved by the Probate Court Administrator, I hereby request that the following judges be designated as stand-by judges for this district in the event of my absence or inability to perform my duties as Judge of Probate. This request shall remain in effect until I notify you to revoke it, or the judge(s) named below have requested that they no longer wish to serve in that capacity, or I no longer hold the office of Judge of Probate.

\_\_\_\_\_  
(Please print)

\_\_\_\_\_  
(Please print)

\_\_\_\_\_  
Signature of Judge

Dated: \_\_\_\_\_