

Senator McDonald, Representative Lawlor, Honorable Members of the Judiciary Committee

As the Judge of Probate for the District of Deep River and a member of the Board of Directors of the Connecticut Probate Judges Association for Local Courts, I am writing concerning the following bills that are the subject of a public hearing before the Judiciary Committee on Friday, March 30, 2007, at 1:00 p.m. – SB-1439, SB-1454, HB-7382, SB-1453, and SB-1272.

Deep River’s chief elected officials, residents, and I **fully support** the continued position of the 110 members of the Connecticut Council of Small Towns. Again this year, the members of COST voted on their Legislative Platform to **PROMOTE HEALTHY COMMUNITIES AND STRONG GRASSROOTS GOVERNMENT**. This includes the following:

Preserve and Strengthen the Municipal Probate Judge System -

COST supports strengthening and preserving local probate courts in smaller communities. COST *opposes the mandatory consolidation of local probate courts (directly or indirectly) and opposes any financing scheme for local courts that would be unfair to small towns.* COST supports the development of a fair and equitable fee structure to help relieve the financial pressures that some probate courts may be experiencing.

We **fully support** Judges Secola, Pearl, Kimes, Case, and Purnell in their testimony on these and other bills.

SB-1439 – AAC CONSERVATORS AND PROBATE APPEALS

We **support** this bill with the following exceptions:

Sec. 2. Section 45a-649 – Inclusion of 17a-543 and 17a-543a involves procedures governing medication, treatment, psychosurgery and shock therapy and administration of medication to criminal defendants, respectively. We **oppose** this change, especially when immediate treatment is needed. Doubling the notice time allows mentally disabled individuals to remain vulnerable and a danger to themselves and others.

Sec. 4. Section 45a-650 (b) – Deleting the Courts’ ability to waive medical evidence, especially in an emergency situation, allows mentally disabled individuals to remain vulnerable and a danger to themselves and others. We **oppose** this change. It is not in the best interest of the individuals we are sworn to protect.

Sec. 4. Section 45a-650 [(f)] (i) – This proposed change adds the wording “ANY INTERESTED PARTY”, and we believe that this is a violation of the right to privacy of the respondent who should be the only one who can request this clarification. We **oppose** this change.

SB-1454 – AAC THE REQUIREMENTS FOR FILING AN AFFIDAVIT IN LIEU OF ADMINISTRATION IN THE PROBATE OF A SMALL ESTATE

We **support** this bill as it is in the best interests of the residents of the State of Connecticut.

HB – 7382 – AAC HEALTH INSURANCE COVERAGE FOR PROBATE COURT JUDGES AND EMPLOYEES

The Probate system’s financial stability has been adversely affected by several factors. Indigency costs have quadrupled in the past five years (\$1.0 Million in 01-02 to over \$4.0 million in 05-06). In the same

time period, health insurance costs have nearly doubled from \$2.9 Million to \$5 Million. The Probate Court Administrator's own budget has increased significantly due to staff increases within his own office, extensive costs for outside consultants (Please see OLR RESEARCH REPORTS 2007-R-0269, dated March 23, 2007, and 2005-R-0911, dated December 20, 2005.), and the ever-increasing operating costs for the Regional Children's Courts. All of these factors create a strain on the Probate Administration Fund.

When faced with budget deficits between 2002 and 2003, the Legislature transferred \$15 million from the Probate Fund surplus to the State's General Fund. Clearly this is allowed under the State statutes and is most appropriate if there are excess funds in the Probate Administration Fund. In June 2002, the Probate Fund balance stood at \$30 million. In June 2003, it was \$16 million. This resulted in a loss of investment income. In 2001-2002, investment income was \$714,187. In 2003-2004 it had dropped to \$177,202. Although investment income has recovered to a degree, the increased costs indicated above and the dip in investment income have created the current concerns about the system's financial stability. In light of the changes the Probate Assembly has approved regarding minimum standards and judicial education, we believe that transferring the costs of the system's health insurance is appropriate and would assist in maintaining its financial viability and ability to continue to serve the residents of the State of Connecticut. Therefore, we **support** this bill.

SB-1453 – AAC THE TRANSFER OF AN APPLICATION FOR THE APPOINTMENT OF A CONSERVATOR TO THE SUPERIOR COURT OR OTHER PROBATE COURT

The residents of Connecticut are not all small children in need – they are also frail, elderly, mentally and physically compromised. Creation of a multi-tiered, bureaucratic maze, requiring salaries for appointed judges (not elected), staff, facilities to house them, and so forth may serve the citizens; but they will become just a number as in any other large, impersonal organization. Matters will be attended to but not as quickly and efficiently as they are now.

There is no grass roots effort to change the Probate system into something different than it is. The dissatisfaction voiced comes from those who seek personal gain not from the consumers using the Probate system. It is reasonable to believe that the municipal leaders and their constituents will be less than satisfied if the Probate system they support is changed by the Legislature of the State of Connecticut into something that will become a model of the Superior Court, the Department of Motor Vehicles, the Department of Revenue Services, and other large, impersonal institutions they are required to use and navigate through daily. Through all of this - the media coverage, the editorials, and so forth - no one has asked the municipal officials or the people they represent how they feel about the potential loss of or drastic change in the Probate Court the residents who preceded them voted to create locally.

Because of the Kinsella matter (see *Council on Probate Judicial Conduct re: Kinsella*, 193 Conn. 180 (1984)), the Legislature was concerned about the problems that arose in the large Hartford Probate Court and, thus, made it smaller and created other "local" courts, such as the West Hartford Probate Court. As recently as 1991, the Bloomfield Probate Court was established from West Hartford. In 1961, the residents of Windsor Locks asked the Legislature to establish its individual Probate district, and the residents of Glastonbury and Newington made the same decision in 1975. All of these Probate Court were established from the original Hartford Probate District. Yet it is being said that going back to a large probate court model, one under the Superior Court, will be better!

This proposed bill would allow forum shopping between the superior court and probate courts as well as between probate courts. It would allow the Probate Court Administrator to assign "specially trained judges" to replace any judge at any time at the request of any party. It would allow the Probate Court

Administrator to provide inferior services to Connecticut's residents based on where they live as well as disenfranchising the vote of many Connecticut residents.

The very sensitive matters affecting our other fragile citizens who depend on our local Probate Courts to help them would no longer be available locally. Please remember them as you consider how and whether changes should be made to the language contained in the Conservatorship Statutes.

If changes need to be made, please be certain that they benefit the majority and not the minority. Please ask yourself whether these extremely difficult, frequently urgent matters belong in Superior Court. I would like to suggest that that may not be the goal of legislation being proposed to you this year. The Superior Court is already overburdened and is not the place for these matters to languish indefinitely. Please ask yourself whether the "master plan" of those seeking these changes may be to change the Probate system forever by moving these sensitive matters into the already established Regional Children's Courts, thus creating the Regional Children's and Conservatorship Courts.

Local Probate Courts are not an accident. The residents of the municipalities they serve want them because they are local, they are accessible, they are efficient, and they can act quickly in the best interests of those in need of their services. It is our responsibility as Judges of Probate to ensure that those needs are met.

Please ask yourself what is the real goal here? Is it to protect and preserve the rights of an individual or is it to change the Probate system?

We **oppose** this bill as it is not in the best interests of all of the residents of the State of Connecticut.

SB-1272 – AAC ADMINISTRATION OF THE PROBATE COURTS AND THE DUTIES OF THE PROBATE COURT ADMINISTRATOR

For five years, we have asked on behalf of the municipalities we serve that the Judiciary Committee support measures that will provide a system of checks and balances within the Probate Court system and to oppose granting the Administrator additional power with no accountability to the Legislature.

Once again, SB-1272 does exactly the opposite. As proposed, it removes the requirements for the Administrator to be accountable to the General Assembly in compliance with the Administrative Procedures Act (Chapter 54) of the General Statutes, removing those checks and balances.

You will recall that the Committee on Program Review and Investigations spent a year investigating the probate system and making its recommendations. The Probate Assembly took these recommendations very seriously, and an Ad Hoc Committee was created to address them. On February 28, 2007, the Probate Assembly unanimously approved the reforms presented by the Ad Hoc Committee concerning both education and minimum court standards/voluntary consolidation. One of the remaining issues concerning the enforcement authority of the Probate Court Administrator is being worked on in consultation with the Counsel on Probate Judicial Conduct. The last charge to study judicial and staff salaries is also under study by a paid consultant. That report is expected to be submitted to the Probate Court Administrator and the Probate Assembly within the next month or so.

These recommendations are revolutionary reforms, and time is needed to implement them. For the first time in many years, there is majority agreement in the Probate Assembly on its plan for the future. This Bill, if implemented, would negate all of the Probate Assembly's work and coordinated efforts to implement its response to Program Review and Investigations. It would be in opposition to the recommendations of a committee of the General Assembly, and it would be in opposition to the

Legislative Platform of the 110 municipalities that make up the membership of the Council of Small Towns.

The Probate Court Administrator has stated many times that he answers only to the Chief Justice. The Chief Justice who appointed him no longer holds that position; therefore, the Probate Court Administrator is functioning as a free agent, pursuing his long-stated objective to consolidate the probate courts. He is spending the Probate Administration Fund freely while he makes allegations that it is the Judges and Courts that are causing it to fail financially. (Please see OLR RESEARCH REPORTS 2007-R-0269, dated March 23, 2007, and 2005-R-0911, dated December 20, 2005.)

We recall that several years ago your Committee promised us that the Legislature is the system of checks and balances. Oversight and accountability are always important in government to ensure that the funds paid to the Probate system by the residents of Connecticut are used wisely. We believe removing this system of checks and balances would absolve the Probate Court Administrator of yet another failure to comply with a statutory direction and would be contrary to the General Assembly's recent requirement of result/outcome based evaluation of all programs.

Connecticut's Probate Courts belong to the people, not to the judges, administrators, or others. We ask you to fulfill your promise and commitment to provide the system of checks and balances, to hold the Probate Court Administrator accountable, and to provide the oversight that currently does not exist.

We **oppose** SB-1272 and urge the Committee to do so also as it is not in the best interests of the residents of the State of Connecticut.

Thank you for your consideration.

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