

Senator MacDonald, Representative Lawlor and distinguished members of the Judiciary Committee. My name is Judge Deborah M. Pearl and I have been probate judge in the Essex Probate Court for 27 years. I am here today to speak to you about the probate bills under discussion in your committee.

**S.B. No. 1272 (RAISED) AN ACT CONCERNING ADMINISTRATION OF THE COURTS OF PROBATE AND THE DUTIES OF THE PROBATE COURT ADMINISTRATOR.**

**I OPPOSE THIS BILL FOR THE FOLLOWING REASONS:**

The Legislative Program Review and Investigation Committee made final recommendations regarding the probate courts and the probate court administrator. Bill 5391 was introduced that embodied the recommendations of the committee. Bill 5391 was referred to the Judiciary Committee and never went anywhere.

The President of the Probate Assembly along with over 30 probate judges formed an Ad Hoc committee to meet the terms of the recommendations of the Program Review and Investigations Committee. For the first time in many years the Probate Assembly has come to consensus and formulated a reform plan encompassing many of the recommendations of the Program Review and Investigation Committee. The Probate Assembly reform plan involves enhanced higher level education programs, minimum court standards which include all courts to be open a minimum of 20 hours per week. The Ad Hoc committee is awaiting final results of a clerk salary study being performed by a professional consulting firm. A judicial salary study is to follow. Attached to my testimony is the Probate Assembly Ad Hoc committee reform plan which received an approved consensus from the Probate Assembly.

Bill 1272 is essentially the same proposed legislation that Probate Court Administrator Lawlor submitted previously. Bill 1272 eliminates any accountability of the Probate Court Administrator to the General Assembly by taking away the requirement that the Probate Administrator comply with the Administrative Procedures Act. **THERE ARE NO CHECKS AND BALANCES FOR THE PROBATE COURT ADMINISTRATOR.**

SEC. 3. (NEW) has the Probate Court Administrator creating a Probate Court Review Panel to review actions or inactions of judges of probate. This panel is a duplication of what is already in existence. The Probate Assembly Ad Hoc committee is presently working with the Executive Director of the Council on Probate Judicial Conduct to explore utilizing the council for the exact purpose of pursuing offending judges. A member of the Council on Probate Judicial Conduct made a presentation to the Ad Hoc committee. The Probate Court Review Panel will become another bureaucratic layer allowing the probate court administrator a forum in which to wield power without oversight from any legislative body

Sec.4. contains provisions which are already established regarding the unavailability of probate judges. C.G.S. 45a-120 states "If any judge of probate declines to act or is disqualified from acting as judge of probate, **OR IS ABSENT OR UNABLE TO DISCHARGE HIS DUTIES**, or if the office of judge of probate in any district becomes vacant, the probate court administrator shall cite any judge of probate to act as judge of probate in the district..." I agree that if the probate court administrator has exhausted his regulatory powers in trying to get a judge of probate to respond to their statutory duties that he should have some type of sanctioning ability. However, that sanctioning ability could come from the Council on Probate Judicial Conduct. The Probate Assembly Ad Hoc committee is presently exploring

utilizing the council for that purpose. Another new layer of bureaucracy is imprudent until our Probate Assembly Ad Hoc committee, co-chaired by the president judge finishes examining this issue.

**BILL 1272 is bad because of the following provisions:**

1. Eliminate any accountability to the General Assembly by removing the requirement that the Administrator comply with the Administrative Procedures Act.
2. Give the Administrator the power to appoint non-judges to hear cases in place of duly elected judges.
3. Give the Administrator the power to determine judges' compensation.
4. Remove the requirement that the Administrator report inadequate court facilities to the General Assembly and give the Administrator the power to punish judges if a town fails to provide appropriate court facilities.
5. Give the Administrator the power to micro-manage all 117 local probate courts
6. Give the Administrator the power to force a court to open even when the town hall is closed.
7. Give the Administrator the power to force the reassignment or transfer of cases from an errant judge.

The Probate Court Administrator is asking to be exempt from accountability. The Probate Assembly is diligently working together to respond to this legislative body.

**S.B. No. 1437 (RAISED) AN ACT CONCERNING THE DATE OF BIRTH OF ADOPTED PERSONS BORN OUTSIDE OF THE COUNTRY AND NOTICE PROVIDED BY THE COUNCIL ON PROBATE JUDICIAL CONDUCT. No objection.**

**S.B. No. 1438 (RAISED) AN ACT CONCERNING NOTICE OF CERTAIN PROBATE COURT HEARINGS AND THE FILING OF CERTAIN REPORTS.**

Comment: Sec. 4. (b), (c), (d) reduces due process for notice provisions from certified mail to regular first class mail.

Sec 9. Subsection (g) of section 45a-92: **OPPOSE** changing filing and payment dated from first day of April to MARCH. To date the Probate Court Administrator's office is undergoing problems with electronic tally system and does not get final tally numbers to the probate courts in a timely manner. Final tally numbers continue to be problematic due to inadequacies with probate administration equipment and collection of data from the courts.

**S.B. No. 1439 (RAISED) AN ACT CONCERNING CONSERVATORS AND PROBATE APPEALS. SUPPORT with exception to the following:**

**OPPOSE** changes TO SEC 2. SECTION 45A-649 REPEALED AND SUBSTITUTION OF CITATION SERVED ON PARTIES AT LEAST (FROM SEVEN) TO FOURTEEN DAYS BEFORE HEARING. Doubling the notice time allows disabled individuals to remain vulnerable and a danger to themselves and others. Allow the probate court to determine that if this is a serious situation that requires quick action that the notice could be served, in the opinion of the probate court, within seven days. Also this section refers to section 17a-543 or 17a-543a which involves medication and psychiatric treatment. The respondents involved need quick action. If not immediately critical then court should allow fourteen days notice provision.

**OPPOSE** deleting the probate court's ability to waive medical evidence, especially in an emergency situation which allows a mentally disabled individual to remain vulnerable and a danger to themselves or others. Many times there are other reliable sources such as social workers and case managers who may have direct knowledge of the individual's situation.

**OPPOSE SECTION 4. SECTION 45A-650 REPEALED AND FOLLOWING SUBSTITUTED; (I) UPON REQUEST ....OR ANY INTERESTED PARTY..COURT SHALL CLARIFY THE FINDING OF FACT...**I believe this is a violation of the right to privacy of the respondent. The respondent or their attorney should be the only party's privy to the court's specific findings clarification.

**S.B. No. 1453 (RAISED) AN ACT CONCERNING THE TRANSFER OF AN APPLICATION FOR THE APPOINTMENT OF A CONSERVATOR TO THE SUPERIOR COURT OR OTHER PROBATE COURT.**

**OPPOSE THIS BILL IN ITS ENTIRITY.** All probate judges should be trained equally to hear all matters within the probate court jurisdiction. The Probate Court Administrator has been establishing special training courses for hand picked judges thereby leaving other probate judges out of the education loop. The Probate Assembly Ad Hoc Committee in its deliberations and recommendations has agreed that all probate judges should have a high level of continuing education. Section 1. (2) the transfer of an application for involuntary representation to another judge of probate appointed by the probate court administrator would allow for judge shopping and deny the people of each town in Connecticut of their probate judge elected by that town. Probate Judges are elected officials by the residents of their town(s) and as such owe a statutory duty and responsibility to their constituents.

Local probate courts handle conservatorships effectively and efficiently. The problems being discussed are sensational cases made sensational by the press and other entities. I agree with many of the increased provisions for higher quality evidentiary hearings and recording of conservator hearings in S.B. 1439. However the transfer of a case from the probate court to Superior Court is unnecessary and will put vulnerable individuals in an even more difficult situation.

The municipalities in Connecticut want their probate courts. They support the probate courts by providing space in their municipal buildings or pay for rent for their probate courts. According to the report of the Probate Assembly Ad Hoc committee, if a town did not want to provide the statutory requirements for a probate court then actions could be taken to require consolidation. From information gathered thus far by the Ad Hoc committee towns want their own probate courts and are willing to provide financial support to keep them.

**S.B. No. 1454 (RAISED) AN ACT CONCERNING THE REQUIREMENTS FOR FILING AN AFFIDAVIT IN LIEU OF ADMINISTRATION IN THE PROBATE OF A SMALL ESTATE.**  
**I SUPPORT THIS BILL.**

**H.B. No. 7382 (RAISED) AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR PROBATE COURT JUDGES AND EMPLOYEES.**

**I SUPPORT THIS BILL.** Probate Judges are elected state officials and should be covered under the State of Connecticut umbrella as are all other state elected officials The Probate Assembly is participating with new reform recommendations improving court standards and judicial education.