



STATE OF CONNECTICUT  
OFFICE OF THE  
PROBATE COURT ADMINISTRATOR

PAUL J. KNIERIM, JUDGE  
Probate Court Administrator

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To: Senate Co-Chair Eileen Daily  
House Co-Chair Cameron Staples  
Senate Ranking Member Andrew Roraback  
House Ranking Member Vincent Candelora  
Honorable Members of the Finance, Revenue and Bonding  
Committee

From: Paul J. Knierim, Judge  
Probate Court Administrator

Re: SB 808 An Act Increasing Fees and Fines

Date: February 9, 2009

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Recognizing that it is the prerogative of the General Assembly to establish the fees that probate courts collect, Probate Court Administration does not take a position on this proposal. We understand that fee increases may be a necessary part of the General Assembly's efforts to address the fiscal crisis facing the probate system and the state, and we offer this testimony to provide information that may be helpful to the committee's analysis.

Probate courts are principally self-funded. Courts collect the fees prescribed by statute and apply the revenue to the expenses of the individual courts and the system as a whole. The probate system also receives general fund appropriations for specific programs, the largest of which is \$2.5 million in funding for the regional children's courts.

Since fiscal year 2005, the probate system has operated at a deficit. It has sustained operations by drawing down on the probate court administration fund. We project that the probate court administration fund will be exhausted in mid-year 2010 and that the system will require \$5 million in additional revenue in

fiscal year 2011 to remain solvent. To address this financial crisis, the Probate Assembly and this office have submitted a Strategic Plan for the Probate Courts, which is being offered as Proposed Bill 6027. The Strategic Plan would significantly restructure the probate system to reduce expenses. The plan also seeks a general fund appropriation to cover the projected deficit.

Gross fee revenue in 2007 (the most recent year for which we have audited figures) was \$30,813,264. The attached chart shows each of the statutory fees applicable to the probate courts. Although a 25% across-the-board increase could raise gross revenue by \$7,700,000, there are, several issues that deserve your consideration:

- Under the current system of judicial compensation, fee increases will generate pay increases for many of the judges totaling \$550,000 to \$700,000, thereby reducing the net increase for the system. The Strategic Plan includes a proposal to restructure judicial compensation that would eliminate this issue.
- The entry fee for most probate matters, other than decedent's estates and periodic fiduciary accounts, is presently \$150. The entry fee amount was last modified in 1998.
- Judges have the authority to waive the \$150 entry fee if the petitioner is indigent. When a court does so, the probate court administration fund pays the entry fee to the court. An increase in the entry fee will therefore cause an increase in this expense to the probate court administration fund. The Strategic Plan, if adopted, would eliminate this problem.
- The probate fee on decedent's estates makes up the largest portion of the system's revenue. As shown on the attached chart, the fee is calculated as a sliding-scale percentage of the value of assets, capped at a maximum fee of \$12,500 for estates valued at \$4.75 million or more. The question arises whether a 25% increase in the gross revenue generated from decedent's estates should be achieved by modifying the applicable percentages, by adjusting the maximum fee, or by some combination of both. The current \$12,500 cap was last modified in 1998.
- Similarly, the probate fee on periodic fiduciary accounts (i.e., the accounts of conservators, trustees, and guardians of the estates of minors) is calculated as a percentage of the value of assets, capped at a maximum fee of \$750 for estates valued at \$375,000 or more. Here again, the question arises whether a 25% increase in the gross revenue generated from periodic accounts should be achieved by modifying the applicable percentage, by adjusting the maximum fee, or by some combination of both. The current \$750 cap was last modified in 1993.

- We have recommended legislation to remove out-of-state real property from the calculation of the probate fee on decedent's estates due to concerns that this part of the fee statute violates that United States Constitution. Although available data does not support a precise estimate of the revenue loss if this legislation were to pass, an OFA estimate from 2007 indicates that the impact would be less than \$400,000.
- Connecticut probate fees on decedents' estates are among the highest in the nation.
- Citizens can arrange their affairs to avoid certain probate fees. For example, the use of an inter vivos trust for estate planning will avoid the requirement that the trustee file periodic accounts and thus also avoid the payment of the fee associated with the process of reviewing the accounts. The committee may wish to consider this as a factor when determining the amount of particular fee increases.

We appreciate the opportunity to provide you with this information and would be pleased to supply any additional material that would be helpful.

## Probate Court Fees

| Decedent Estates: (Effective April 1, 1998)  |  |
|--|--|
| \$0 to \$500   | \$25.00  |
| \$500 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  |
| Conservatorships, Guardianships and Trusts: (Effective July 1, 1993)   |  |
| FILING   | FEE  |
| Account with no hearing  | \$25.00  |
| Account requiring a hearing  | Based on the greater of the book value, market value, or receipts. If more than one account is the subject of the hearing, the most recent account is used to determine the fee. |
| Of less than \$25,000  | \$50.00  |
| Of \$25,000 to \$375,000   | .0020 of value   |
| Over \$375,000   | \$750.00   |
| Other Fees and Costs: (As of January 1, 1998)  |  |
| Application fee (other than decedents' estates and fiduciary accountings)  | \$150.00   |
| Each additional hearing on any matter  | \$25.00  |
| Hearings that exceed one hour  | \$25.00/hour, after first hour (Not to exceed \$300.00)  |
| Application by creditor for the court consideration of disallowed claims   | \$50.00 (payable by creditor; if allowed, may order the fiduciary to reimburse from the estate)  |
| 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)  |
| Each hearing notice in excess of two   | \$2.00 each  |
| Fiduciary Certificates (first certificate)   | No Charge  |
| Additional certificates ( up to 5)   | \$5.00   |
| Each additional certificate (after 5)  | \$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   | \$25.00  |