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TO: Senate Co-Chair Andrew J. McDonald
House Co-Chair Michael P. Lawlor
Honorable Members of the Joint Committee on Judiciary

FROM: Probate Judge Michael A. Albis

RE: HB-6027, "An Act Concerning Probate Court Reforms"

Date: March 9, 2009

I respectfully submit this statement in support of HB-6027, which embodies the joint plan of the Probate Assembly and the Probate Court Administrator for the reform of the probate courts. I believe the bill would create positive changes to enhance the quality and the financial stability of the probate system, while preserving the features that have enabled the system to serve the people of Connecticut well for centuries.

One of the most important positive features of our system is that it may be readily used by the public. Probate courts are easily accessible and user-friendly, usually located in local town halls. With the help of experienced clerks and understanding judges, citizens commonly negotiate probate matters from start to finish without having to hire an attorney.

I preside over a typical probate court whose intake records illustrate clearly the ability of citizens to use the system without an attorney. Of the persons filing new cases ("petitioners") in the East Haven Probate Court in 2008, approximately 45% percent did so without legal representation. This does not even take into account the other interested parties in each case, like the heirs of an estate, who participated without a lawyer.

The percentage of petitioners acting without legal counsel is even more pronounced in critical areas of the court's jurisdiction, like the growing caseload relating to child custody and guardianship. Here, the typical petitioner is a grandparent seeking to protect a child at risk of abuse or neglect. In the children's matters filed in my court last year, 72% of petitioners were unrepresented by counsel. And in most of the cases where there was an attorney, he or she was

appointed by the court and paid by the probate system to represent a child following a report from a concerned adult that the child was at risk.

It is important for probate courts to be more accessible than other courts, because probate matters are inherently different from other legal proceedings. A citizen contemplating a civil suit in Superior Court may weigh the costs and benefits of legal action before filing. In contrast, residents come to probate court at times of family crisis under circumstances beyond their control: the death of a loved one; a child at risk of abuse or neglect who needs a caring relative to seek custody immediately; or a family member facing major medical decisions but lacking the capacity to make them, to name a few.

Families in crisis should not have to ponder the cost of legal representation before acting. Connecticut has always provided a court system that assists them even if they lack legal expertise and the funds to hire a lawyer. Some may consider this an antiquated luxury we can no longer afford, but for the users of the system it is an essential lifeline from their government that is more, not less, necessary in these troubled times.

While acting without an attorney is the norm in probate court, it is much rarer in Superior Court with its more formal procedures. The lay person who proceeds without a lawyer in that forum does so at his or her peril. The rules of procedure in Superior Court are, quite justifiably, designed with attorneys in mind.

Comparing our probate courts with the larger courts of other states, lawyers who practice both here and elsewhere praise the expediency of our system. Experienced attorneys relate instances where it has taken them months to accomplish in another state what they can do in weeks, or sometimes days, in Connecticut. If lawyers are frustrated by delays in the large probate courts of other states, the lay person faces even greater difficulty.

If our probate court system were merged into Superior Court, or centralized to resemble the systems of other states, many Connecticut residents who might have handled their own probate matters will retain attorneys at significant expense. Those who would have hired an attorney in the first place may pay higher fees. Any budgetary savings will be offset by the hidden shift of new legal costs to the users of the system who are, after all, taxpayers.

But that would not be the worst impact. Making the system less accessible and more expensive will inevitably result in cases where people should go to the court but don't, and cases where a citizen daring to proceed without a lawyer will encounter obstacles and delays that do not presently exist. When a family fails to probate a small estate in a timely manner because the system has become more complex, the impact may be minimal. But when a citizen lacks the wherewithal to act quickly to help a neglected child, a developmentally disabled adult relative, or a medically impaired elderly parent, the human cost may be immeasurable and irreparable.

Connecticut's probate judges agree that our system needs change. The plan advanced by the Probate Court Administrator and Probate Assembly, as embodied in this bill, proposes major reforms to improve the courts and address their financial difficulties through such measures as the centralization of court finances and a revamped judicial compensation schedule. The plan

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also recognizes the need to consolidate small courts in order to achieve economic savings. But the plan would establish a process whereby all stakeholders, including municipal officials and members of the public, would have input into consolidation decisions.

I fully support HB-6027 for many reasons, not least of which is that it offers the best opportunity to produce consolidation that strikes the proper balance between budgetary considerations and the needs of the public. No responsible reform plan can ignore the value of keeping the courts accessible to all residents, or the financial and social costs of making the probate system impenetrable for the lay person. We must improve the system without sacrificing its proven ability to serve Connecticut families on a very personal level in their times of need. This bill affords the chance to do just that.

Thank you very much for your time and consideration.