

TESTIMONY FOR THE JUDICIARY COMMITTEE

SUBMITTED BY HON. LINDA M. SALAFIA,
JUDGE OF PROBATE, DISTRICT OF NORWICH

March 9, 2009

Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee:

My name is Linda Salafia, Judge of Probate for the District of Norwich and past-president of the Connecticut Probate Assembly. I have been privileged to serve as probate judge for nearly 28 years. I do not have a law degree, nor do I have any other occupation outside that of probate judge. Prior to my election, I was clerk of the court for 7 years. It was my years of experience as a full-time clerk in a court with a part-time attorney judge, not a law degree, that resulted in my being elected as the first female, non-attorney probate judge in the history of the Norwich Probate Court.

I am writing in opposition to **Governor's Bill #6385** which calls, in part, for the consolidation of the probate courts to equal the number of State senatorial districts (Section 1 of 45a-2). The Bill further mandates that each judge of probate elected for the term that begins on or after January 5, 2011, shall be a member of the bar of the State of Connecticut, and shall have been a member of the bar for a minimum of ten years (Section 5(e) of Section 45a-18). There is no provision for the grandfathering of lay judges, many of whom have devoted years of competent, dedicated service to the residents of their districts.

With reference to Section 1 of 45a-2, I have long supported voluntary consolidation of the probate courts. During the past 14 years, I have served on various sub-committees of the Connecticut Probate Assembly each of which explored the possibility of voluntary consolidation. A number of workable plans were developed but ultimately did not receive a favorable majority vote by Assembly members. The plans were drafted by judges familiar with the geographical location of the courts within each probate region, with careful consideration given to population, approximate court workload, travel distance for court users, hospitals and convalescent care facilities in the area and availability of public transportation.

I firmly believe that establishing probate districts along senatorial district lines is not in the best interest of the residents of the State of Connecticut. If there is to be court consolidation, greater thought and careful consideration must be given to the creation of the larger districts. For example, the Norwich Probate District includes the towns of Norwich, Preston, Lisbon, Franklin, Voluntown and Sprague. All probate records from those towns, including Griswold which was a part of the Norwich District until 1979, are on file at the Norwich Probate Court. Only Norwich, Franklin, Lisbon and Sprague are included in the 19th Senatorial District. It would be a nearly impossible task to separate the records of each town, and would cause extreme hardship to many, including title

searchers, genealogists and, most importantly, users of the court. For example, Preston residents, who may have probated a number of estates of deceased family members in Norwich and are familiar with the court facility and court staff would be required to travel to a strange court in another District.

It appears that no consideration was given to an almost certain increase in attorneys' fees in many probate matters due to an increase in travel, nor to the potential cost of constructing new court facilities or renovating established courts to accommodate the newly-formed districts. I personally cannot fathom how requiring that residents of Andover, Columbia and Hebron, all in the 19th senatorial district, drive to the Norwich Probate Court, or that Norwich-area residents travel to the Columbia area would benefit anyone, except for attorneys. I am also at a loss to understand what is proposed for those towns, such as Montville, that now have one probate district, and if the Bill #6385 is passed, would have two courts: one part of the town in the 19th senatorial district and the other part of town in another senatorial district. For all of the above reasons, I am adamantly opposed to the proposed Section 1 of Section 45a-2.

Although I was somewhat surprised that the Governor's proposed Bill mandated that all probate judges be attorneys as of January, 2011, I was very surprised that there was no provision for grandfathering currently sitting lay judges, thereby eliminating their ability to run for re-election in 2010. In my opinion, failure to grandfather dedicated, highly qualified and experienced lay judges is a personal affront to each of us. Should this Bill pass, there is no doubt that decisions rendered by lay judges in the past will become suspect, and future decisions will no doubt be overly scrutinized since the Governor and the Legislature will have deemed lay judges, some of whom have capably and skillfully served for more than 25 years, unable to understand the law.

As I previously indicated, Norwich is a multi-town district that includes the towns of Franklin, Lisbon, Preston, Sprague and Voluntown. I may be unique in that I am a non-attorney judge serving a multi-town district that has a total population in excess of 52,000. I serve full-time in a very busy court that last year handled a weighted workload in excess of 3,700 matters. Our workload is comparable to that of the probate courts in Hamden, Danbury and Milford. I do not have an attorney on staff to assist me in writing legal decisions. My record speaks for itself. Since taking office in November of 1981, I have never recused myself out of fear that my lack of a law degree would compromise my ability to make a fair and just decision, nor have I ever been asked to recuse myself in favor of an attorney judge. I have handled thousands of involuntary commitment matters, and more than one thousand adoptions, removal of guardian and other children's matters. I have very successfully dealt with complex legal documents, determined title to real estate, constructed Wills and Trusts and acted upon detailed financial accountings in conservatorships, decedent estates and trusts. At no time have I felt that my non-attorney status has adversely affected my ability to do the job I was elected to do. I defeated a well-known, long-time attorney when I first ran for election in 1981 and since that time, I have run either unopposed or cross-endorsed. Despite the foregoing, the Governor of our State has decided that I am no longer qualified to serve as probate judge since I did not graduate from law school.

In a recent internet search, I found that approximately 40 states in the United States have lay judges serving in various courts. In fact, there are as many lay judges as attorney judges – more than 1800 non-attorney judges sit in New York State alone. These lay judges handle probate matters, juvenile cases, conservatorship matters, and in some states, divorce matters and even felony cases. Websites for courts in South Carolina, Kansas, Washington State, New York, Alaska and even Abilene, Texas all speak of the competence of lay judges.

Although I am not well-versed in the political process, it has long been my belief that our legislators are elected to serve as the voices of their constituents. It would therefore follow that if the voters in a probate district have chosen to elect a non-attorney as their probate judge, as currently is their Constitutional right, neither the Governor of this State nor the Legislature should have the authority to disregard the will of the voters and, through legislation, require that all probate judges be attorneys. I am aware that the distinguished senator from my senatorial district has also proposed a Bill requiring that, effective January 2011, all probate judges be attorneys, with no grandfathering of experienced lay judges. I have yet to determine how she feels she is acting in accordance with the wishes of her constituents when voters of 7 of the 11 towns in her district have elected and re-elected lay judges. I have discussed her proposal of this bill with a number of area voters, and they expressed indignation that such a Bill was proposed by their senator.

Thank you for the opportunity to present written testimony. Please do not vote for the passage of Governor's Bill #6385. It is not a solution to the challenges we face, nor is it the will of the people. If you have any questions, I would welcome an opportunity to speak with any or all of you. I will leave you to ponder this quotation from "Non-Lawyer Judges – The Long Road North" (*David Lee, Esq, 53 Chicago-Kent Law Review 565, (1977)*):

"Members of the Executive and Legislative Branches of government, where our laws are written and executed, do not require law degrees. It is axiomatic, therefore, that an unbiased and intelligent non-lawyer Judge is similarly able to interpret the law".

Respectfully,

Linda M. Salafia,
Judge of Probate

Probate Court, District of Norwich
P.O. Box 38
City Hall, 100 Broadway, Room 122
Norwich, CT 06360
Court phone: (860) 887-2160
Cell phone: (860) 886-3600
Home phone: (860) 889-5943

