

## ATTACHMENTS

### CONNECTICUT BAR ASSOCIATION PROBATE TASK FORCE REPORT Fact Sheet

#### Accessibility

At present there are 106 districts where the court is open less than 40 hours per week.  
There are 40 districts where the court is open less than 20 hours per week.  
And there are 15 districts where the court is open less than 10 hours per week.

There are currently 123 districts. The population of the smallest 53 districts (representing 43% of the districts) was a total of 319,000 in 2000. That represents 9% of the population of all districts.

#### Clerical staff

At present there are 64 districts with one or fewer clerks.  
There are 47 districts with only a part-time clerk.  
There are 12 districts with no clerks.

#### Facilities

At present there are 31 probate districts where the facilities do not meet the standard fixed by statute, C.G.S. 45a-8.

Again, those districts out of compliance with the statutory minimums are those that serve the smallest populations. Therefore, those persons who will travel to a new, neighboring town for their probate district will tend to be who will see the greatest improvements in court facilities and staffing.

#### Finances

At present 56 probate court districts are subsidized by the Probate Administration Fund for health benefit costs and/or operating costs. Many of those courts have facilities which do not comply with the statutory mandates. Many of those courts also are open to the public a minimal number of hours per week (some as few as 2 to 6 hours per week).

There are many courts where the compensation of the judge bears no apparent relationship to the workload or service hours of the court. For example, there are courts that are open less than one full day per week where the judge earns over \$30,000 per year, plus medical and pension benefits.

**CONNECTICUT BAR ASSOCIATION  
PROBATE TASK FORCE REPORT**

**STATISTICAL TALKING POINTS**

**Accessibility**

At present there are 106 districts where the court is open less than 40 hours per week.  
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There are currently 123 districts. The population of the smallest 53 districts (representing 43% of the districts) was a total of 319,000 in 2000. That represents 9% of the population of all districts.

**Observations:**

1. Only a tiny portion of the population served by the probate courts would be affected by a merger or re-districting of small districts.
2. Also, those same 53 districts tend to be those which have the least hours of court service. Thus those portions of the population who may travel to a new, neighboring town for court sessions will be those most benefited by the increased hours of service and improved court facilities.
3. An increasing percentage of the parties to probate hearings live outside the district of the hearing, such as adult children of parents whose estates or conservatorships are involved in a probate proceeding. These parties travel from out of the district already, and therefore are not affected by consolidation of districts. They are, however, affected by the reduced hours of courts, and will benefit from the increased hours that will follow from consolidation.

**Clerical staff**

At present there are 64 districts with one or fewer clerks.  
There are 47 districts with only a part-time clerk.  
There are 12 districts with no clerks.

**Observations:**

1. Where there is no clerk, all telephone contact with the court constitutes *ex parte* judicial communications (except in the rare cases that the parties organize a

conference call to the court). This creates the constant potential for the appearance of impropriety.

2. Clerks are essential to the operation of courts for reasons other than avoiding *ex parte* communications. Clerks in most courts assist the public in understanding court forms and procedures.
3. The increasing roles of the probate courts in handling conservatorships and childrens' matters requires more sophisticated training than ever before. The probate courts are required to follow technical statutes that protect family members in such cases; courts with insufficient clerical staff are generally unable to provide the training that clerks need to perform these functions. The Casey Foundation's study concluded that children's matters should be consolidated to an even greater extent to build up knowledge and experience in the courts.

### **Facilities**

At present there are 31 probate districts where the facilities do not meet the standard fixed by statute, C.G.S. 45a-8. The Task Force has recommended somewhat higher standards than the statutory minimum.

#### **Observations**

1. Again, the districts furthest out of compliance with the statutory minimums tend to be those that serve the smallest populations. Therefore, those persons who will travel to a new town for their probate court district will likely be those most benefited by the improvements in court facilities.
2. The cost of upgrading this number of facilities to the minimum statutory standards would be substantial.

### **Finances**

At present, 56 probate court districts are subsidized by the Probate Administration Fund for health benefit costs and/or operating costs.

#### **Observations**

1. With a few exceptions of large city courts, the courts requiring subsidies tend to be the courts whose facilities are out of compliance with the statutory minimum standards, and are also often the courts with the fewest hours of service.
2. Thus, those districts most in need of both capital and operations funds to improve facilities and service hours are the districts least able to afford them.

3. This figure is increasing, not decreasing, over time.

There are many courts where the compensation of the judge bears no apparent relationship to the workload or service hours of the court. For example, there are courts that are open less than one full day per week where the judge earns over \$30,000 per year, plus medical and pension benefits.

#### Observations

1. This illustrates the disincentives in the current system for good service. A judge makes more money by not employing clerks and by keeping the court closed during business hours, even when good service to the public would require it.
2. Limited experience in probate and probate related family matters, even with legally trained judges, does not produce the greatest level of service for the public.
3. The system's limited resources are not efficiently used by this somewhat arbitrary allocation.

### PROBATE COURT SYSTEM

- The Connecticut probate court system is one of the oldest in the nation. Unlike Connecticut superior court judges, probate judges are elected officials and not required to be attorneys. Currently, there are 123 probate judges serving four-year terms. The majority has been elected for two terms or longer with 27 judges serving more than 16 years in office.
- The scope of jurisdiction of probate courts is established by statute, and has expanded over time. Probate judges can face a wide array of cases, with different levels of complexity and criticality. Many individuals who come before a probate judge can have significant social and medical issues connected to their legal matters.
- The probate court system was structured to be self-supporting without assistance from the state's general revenues. The fees generated by each court are intended to pay for the staff and administrative expenses of the court as well as the judge's compensation. Probate judges have sole discretion in the selection and compensation of court staff as well as the hours worked by court employees.
- Fees are based on statutory fee schedules and/or may be flat entry fees that in some indigent cases are waived. The costs associated with settling decedent's estates generates the majority of probate fees.
- Because the majority of a court's revenue comes from fees based on the value of a decedent's estate, courts of similar population size may generate revenue in vastly different amounts.
- There has been a consistent rise in the probate courts' workload. In 2004, the Connecticut probate courts handled a total of 82,479 matters (excluding 17,304 passports).
- The Office of the Probate Court Administrator has general oversight of the probate system. The Chief Justice of the Connecticut Supreme Court appoints the probate administrator from among the sitting probate judges.
- All probate court judges, by virtue of their position, are members of the Probate Court Assembly, an entity established by statute that may advise the probate administrator on improvements to probate procedure and practice.
- There is a probate court administration fund to which each probate court contributes an annual financial assessment to benefit the statewide probate system. The fund is statutorily required to pay for a variety of expenditures for the operation of the Office of the Probate Court Administrator and for services provided to the probate district courts.
- The Office of the Probate Court Administrator initiated a number of special projects in the last few years. The largest initiative has been the New Haven regional children's

## Key Points

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probate court. Legislation enacted in 2005 authorizes the creation of six additional regional children's courts.

- Over the years, several studies have been done on the Connecticut probate court system. While some changes resulted from these studies, the probate court system has retained much of its administrative and financial autonomy without any major reconfiguration.
- In 2004, the probate court administrator developed a reorganization plan at the request of the Chief Justice. The plan was drafted into legislation for the 2005 session. However, after several revisions the legislation ultimately died in the Senate.