

STATE OF CONNECTICUT

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TO: Senate Co-Chair Catherine A. Osten
Senate Ranking Member Paul M. Formica
House Co-Chair Toni E. Walker
House Ranking Member Gail Lavielle
Honorable Members of the Appropriations Committee

FROM: Beverly K. Streit-Kefalas
Probate Court Administrator

RE: H.B. No. 5005, An Act Adjusting the State Budget for the Biennium Ending June 30, 2021

DATE: February 11, 2020

Thank you for the opportunity to testify about the budget needs of the Probate Court system.

We respectfully ask the committee to continue the funding approved for the Probate Courts in the amount contained in the Judicial Branch's proposed budget for the biennium.

Approved Fiscal year FY 20-21	\$ 12.5 million
Proposed Adjustment FY 20-21	\$ 3.9 million

The Governor's proposed budget adjustment of \$8.6 million reduces Probate Court funding to \$3.9 million per year.

Setting aside the statutory funding for the Extended Family Guardianship, Kinship and Respite Funds, and for Melissa's Project Guardian Ad Litem Services for mental health treatment, the proposal effectively slashes the Probate Court system funding to \$1.7 million.

Trends Affecting the Probate Courts

The role of the Probate Courts has changed dramatically over the years. Once known for its administration of trusts and estates, it is now very much a social services court - meeting the critical needs of children, seniors, and individuals with cognitive impairments, mental and behavioral health issues, intellectual disability and autism.

Our docket is growing rapidly in all of these areas. Probate Courts now handle more than 100,000 cases annually, a figure that has risen 29% in the past five years. The growth is even more dramatic in mental health cases, where the docket has ballooned by 56% since 2012. Children's matters are up 22% in the same period.

The rapidly growing workload is a direct reflection of broader societal trends. The population is getting older and the prevalence of dementia is rising. Children suffer neglect when parents fall prey to opioid and other addictions. Residential psychiatric facilities have been shuttered while the state struggles to provide community-based living arrangements. Best practices favor aging-in-place rather than nursing home care whenever possible. The need for conservators and guardians to assist persons with disabilities grows as state and community providers cut back on services.

The Probate Courts are truly vital to the safety net for all of the populations affected by these trends. About 22,000 Connecticut residents rely on a conservator to arrange nutrition, housing, medical care, psychiatric treatment, and personal safety. Nearly 7,000 children are cared for by a guardian appointed by a Probate Court and more than 11,000 adults with intellectual disability rely on a guardian to assist them with decisions affecting all aspects of their lives. A conservator or guardian can be the difference between a safe apartment and homelessness for a person with mental illness living in the community. For many seniors with dementia, nursing-home care would be a necessity but for the home-care services that a conservator puts in place.

In addition, these cases are growing more complex. Each requires more of the courts' time for hearings and other activities to arrive at the best solution for each individual or family.

Efficiency Measures

Despite the enormous growth in caseload, the Probate Court system is a far leaner organization than it was 10 years ago. In 2011, the system shrank from 117 courts to 54, implementing a regional structure that is often cited as a model for other services. This consolidation continues to save the state more than \$4 million annually.

Because staffing levels have been static since 2011, we constantly look for ways to manage the ever-expanding workload by embracing technology and streamlining procedures. We have adopted uniform Rules of Procedure, for example, that make it unnecessary for the court to schedule a hearing when the parties are in agreement on an issue. Similarly, the rules permit conservators, guardians and other fiduciaries to use simplified financial reports instead of the extensive detail required in traditional accountings.

On the technology front, on January 1, we debuted a new eFiling system that is mandatory for all attorneys within the probate system. It gives parties access to the Probate Courts 24/7, allows electronic payment and reduces the amount of unnecessary paperwork. This complements the electronic document management system, a program that generates automated letters to remind fiduciaries when action is required, and an online billing system for conservators and attorneys that eliminates 25,000 paper invoices per year. All of these initiatives dovetail with the Lamont administration's goal of making state government "all-digital" – and as accessible as possible.

Enhanced Training and Fiduciary Guidelines

We now have free online training for non-attorney and attorney conservators (in both English and Spanish) to help conservators understand their duties and minimize the staff time required for training. All of our User Guides are also available in both English and Spanish. And to ensure adherence to best practices for the protection of conserved persons, all conservators must comply with the Standards of Practice for Conservators. We have also implemented random audits of conservators which serve as an additional deterrent for misuse of the conserved person's funds.

State Agency Savings from Probate Court Services

By giving relatives the tools they need to arrange community-based care for their loved ones, the Probate Courts save state agencies hundreds of millions of dollars each year. For example:

- DMHAS would spend more than **\$402 million** for inpatient psychiatric hospitalizations for indigent conserved persons who are now able to live in the community as a direct result of the services arranged by conservators.
- Grandparents and other relatives serving as guardians for children make foster care unnecessary, thereby saving DCF more than **\$66 million** annually.
- DSS saves more than **\$206 million** in nursing home care when conservators arrange services for low-income seniors to stay in their homes.

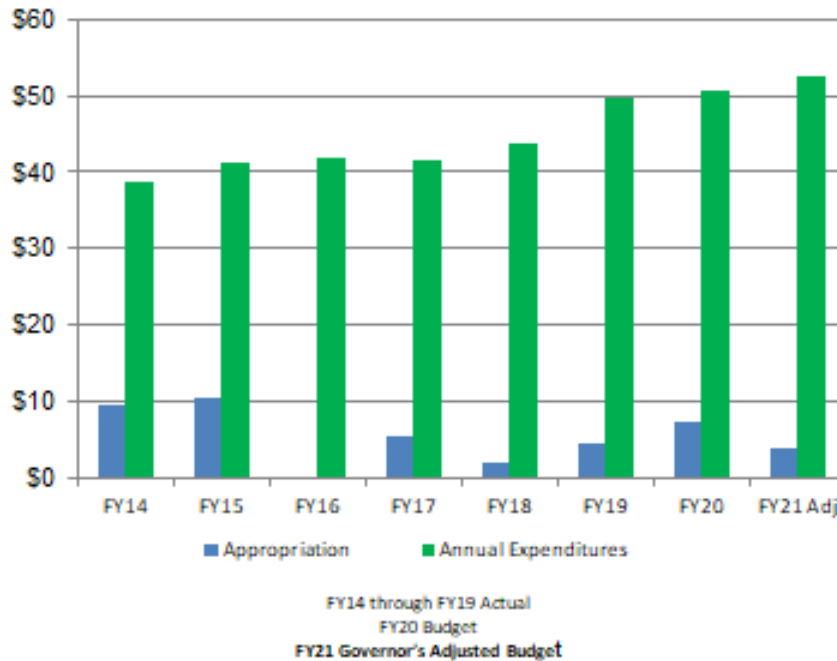
Probate Courts also benefit the state's finances by enabling DAS to recover monies from the estates of individuals who received public assistance or who were incarcerated. This important part of the estate settlement process yields nearly **\$60 million** for the General Fund every year.

General Fund Appropriation as a Percentage of Probate Court Operating Expenses

State savings from Probate Court services are even more remarkable considering how small a portion of the cost of operating the Probate Court system is borne by the General Fund. As the chart below illustrates, the **General Fund appropriation represents only a fraction of our budget**. The General Fund share of Probate Court costs will be less than 24%.

**Connecticut Probate Courts
General Fund Appropriation Compared to Annual Expenditures**

(\$ in millions)



This minimal investment represents an exceptional value proposition for our state. For every \$1 dollar of appropriation, the state gets \$7 of essential safety-net services for tens of thousands of Connecticut residents.

Probate Courts Subsidize State Services for the Poor

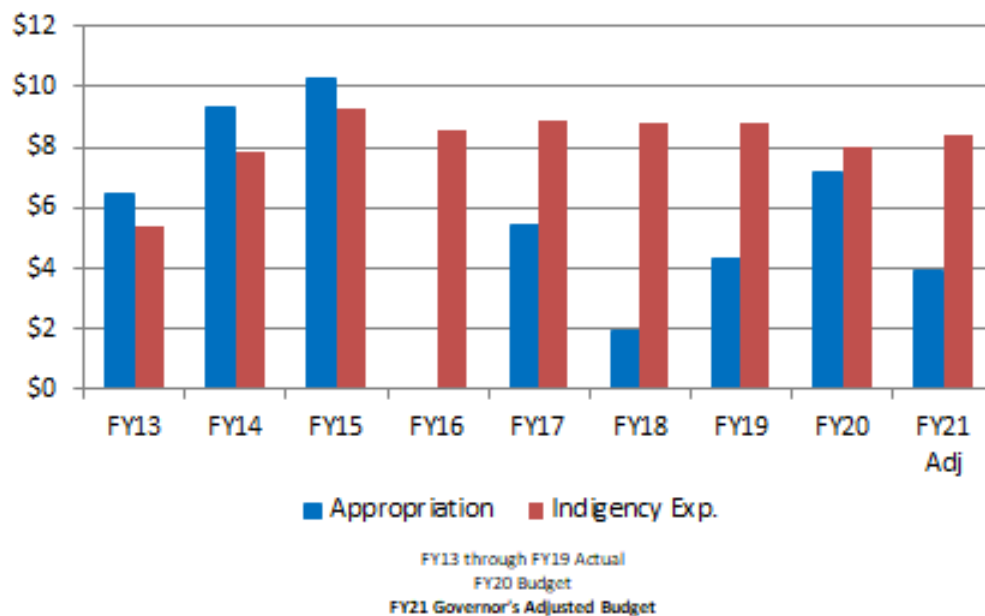
Unlike many states, Connecticut looks to its Probate Courts to find conservators for individuals who have no available family and to pay for the services of the conservator when the conserved person is indigent. In addition, our state mandates that the Probate Courts pay for attorneys for low-income respondents, and it requires the Probate Courts to fund a grant program that helps guardians pay expenses for children in their care.

The cost of these three mandates for FYE 2021 is as follows:

Conservators for indigent conserved persons	\$5.3 million
Attorneys for indigent parties	2.5 million
Kinship and Respite grants for children	2.1 million
Total	\$9.9 million

Until fiscal year 2015-16, the General Fund appropriation for the Probate Courts covered the cost of the three mandates. Due to the large cuts in General Fund support for the Probate Courts since then, the Probate Courts have been subsidizing these mandated services. The Governor’s proposed budget adjustment will once again result in significant underfunding of these mandated expenditures as set forth below:

Connecticut Probate Courts General Fund Appropriation/Utilization *(in millions)*



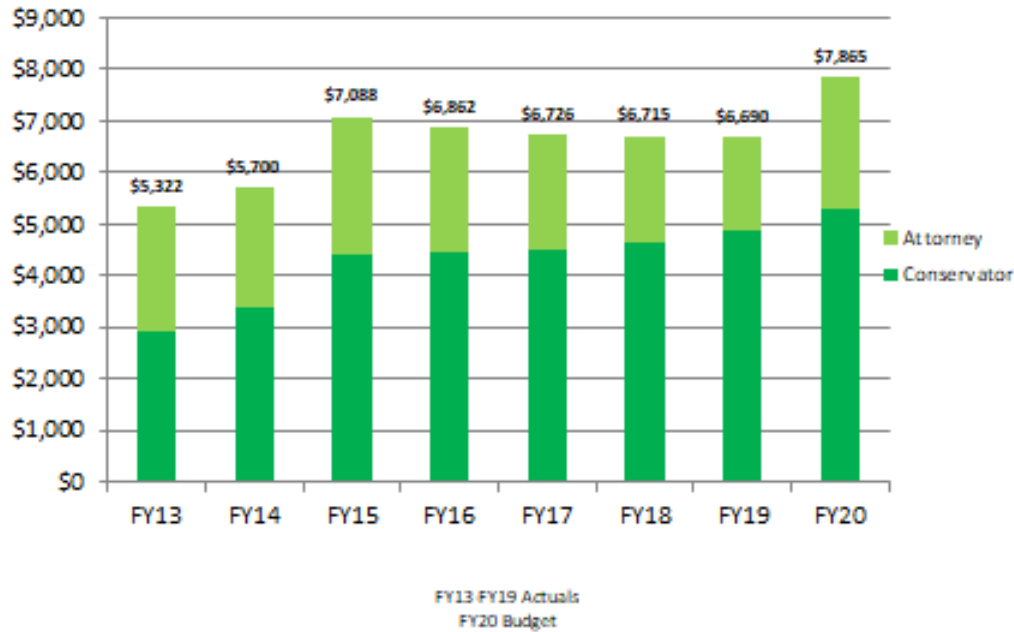
As has been the case since FY16, Probate Courts disburse millions more for these programs than they receive in General Fund support. The issue is a growing problem, particularly in the conservatorship area. The cost of providing conservators to indigent conserved persons – a mandated expense that is driven entirely by external trends -- now represents fully 10% of the Probate Court system budget. This amount does not include additional expense for other indigent services.

As an annual expense, the Probate Courts will pay an estimated \$7.9 million for court-appointed attorneys and conservators for indigent conserved persons. Based on the Governor’s proposed budget adjustment, the state will pay for less than half of this required expense.

Although revenue has been strong in this current budget cycle, it is volatile and unpredictable. For fiscally sound budgeting, a cushion maintained in the budget is critical as we are tied to economic fluctuations. Maintaining a strong balance provides for the stable support for the future and avoids the need for a deficiency allocation.

**Connecticut Probate Courts
Conservator and Attorney Expenses For Indigent Persons**

(\$ in thousands)



Funding Requirements in FY21

The biennial budget funding request that we presented last year and seek continued support of today was developed with three key objectives:

The Probate Courts have long imposed efficiencies to streamline processes and make the most from the least. We are experiencing cost increases driven by external factors such as (1) development of the eFiling system which just launched, (2) growth in the number of low-income conservatorships cases; and (3) required pension funding and long overdue compensation adjustments for staff. Prior to the compensation adjustment given to court staff in July 2019, they had not received any compensation adjustments since 2015.

Conclusion

Our state is fortunate to have a Probate Court system that delivers vital safety-net services to its most vulnerable citizens while saving state agencies hundreds of millions of dollars per year. Our state is equally fortunate that the General Fund bears a mere fraction of the cost of providing the services.

We are the safety net for so many of the most vulnerable individuals who have no one else to care for them. At a time when our non-profits are less able to assist, it falls on the Probate Courts to help elderly persons age in place with help; to assist parents in making arrangements for adult children with disabilities; to help a child whose parents can't care for her remain with an aunt or grandparent.

The Probate Courts have contributed mightily to solving the state's financial problems over the past decade. Court consolidation has saved the state more than \$32 million to date. We have aggressively implemented efficiency measures to manage through massive cuts to General Fund support – including a year with no funding at all. And we have eased the impact of the rising costs of providing services to indigent residents with prudent application of the Probate Court Administration Fund.

We respectfully urge the committee to approve restoration of the amount you appropriated for the Probate Courts of \$12.5 million in FY21. In addition, we ask the committee to approve suspension of the June 30, 2019 automatic sweep under C.G.S. section 45a-82(j).

Thank you for your consideration.