

PA12-045

SB0248

House	6289-6294	9
Judiciary	(913), (914-915), 916, 955-957	7
<u>Senate</u>	<u>1960, 2034-2035</u>	<u>3</u>
		19

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2012**

**VOL.55
PART 19
6188 – 6484**

smj/law/djp/gbr
HOUSE OF REPRESENTATIVES

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May 4, 2012

DEPUTY SPEAKER GODFREY:

Have all the members voted? If so, the machine will be locked, the Clerk will take a tally.

Mr. Clerk, please announce the tally.

THE CLERK:

Senate Bill 194, as amended by Senate "A" in concurrence with the Senate.

Total number voting	140
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Necessary for adoption	71
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Those voting Yea	140
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Those voting Nay	0
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Those absent and not voting	11
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DEPUTY SPEAKER GODFREY:

The Bill as amended is passed in concurrence with the Senate.

Will the Clerk please call Calendar 478.

THE CLERK:

On Page 33, Calendar 478, substitute for Senate Bill Number 248, AN ACT CONCERNING PROBATE FEES.

Favorable report by the Committee on Finance.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Judiciary Committee, Representative Jerry Fox.

REP. FOX (148th):

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Thank you, Mr. Speaker. I move for the acceptance of the Joint Committee's favorable report and passage of the Bill in concurrence with the Senate.

DEPUTY SPEAKER GODFREY:

Question is on acceptance and passage in concurrence. Will you explain the Bill, please sir?

REP. FOX (148th):

Thank you, Mr. Speaker. This is a Bill that comes to us from the Probate Court Administrator. It makes certain changes to their fees as well as the terminology that are used. For example, Sections one through eight attempt to establish consistency with the terminology they use when it comes to costs, fees, charges and expenses. And, what it does is it makes a change to that to say that the word fee will be substituted in those sections. Also, there is a \$25 fee or an additional \$25 fee that is added whenever a petitioner requires more than one hearing and seeks a copy of a -- I believe of a digital copy of the audio recording of a probate court hearing. Mr. Speaker, it is a -- I don't want to say technical bill, but it's a Bill that the Probate Court Administrator felt would enable them to better coordinate their activities. It

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did pass unanimously in the Judiciary Committee and I would urge passage of the Bill.

DEPUTY SPEAKER GODFREY:

Will you remark further on the Bill? Will you remark further on the Bill?

Representative Hetherington, the distinguished Ranking Member of the Judiciary Committee.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. A question to the proponent if I may?

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. HETHERINGTON (125th):

Thank you. Will the increase in fees -- court fees, that we have recently passed as part of funding for legal aid to the poor -- do any of those fee changes impact fees in the Probate Court? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (148th):

Thank you, Mr. Speaker. Through you, the Probate Court has its own separate fee structure.

DEPUTY SPEAKER GODFREY:

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Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you. Okay. Well, I thank the proponent and as far as I can determine and understand in committee, these are fees that are requested by the Probate people and I -- one additional question to the proponent. When was the last time that we changed fees across the board in the Probate Court? Do you know? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (148th):

Through you, Mr. Speaker, I know that we have done so -- this is not an across the board fee change, it's just a \$25 fee on a specific instance, but we have made adjustments to the fees. I mean, as the speaker is certainly aware, we went through an entire overhaul of the Probate Court system several years ago, and I believe as part of that process, certain fees were addressed as well.

DEPUTY SPEAKER GODFREY:

Representative Hetherington.

REP. HETHERINGTON (125th):

Okay. Thank you. Do you know, through you, Mr.

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Speaker, was there a particular reason for these specific changes in fees?

DEPUTY SPEAKER GODFREY:

Representative Fox.

REP. FOX (148th):

Through you, Mr. Speaker, I believe it was because they -- it was to cover the costs of the service that was being provided. For example, the \$25 fee for a digital copy of an audio recording of a probate court hearing and it would give the party who requested a copy, the option of purchasing a digital recording rather than paying for a transcript of the hearing. It was designed to allow the Probate Court to satisfy the requests of the parties who appear before them, but also to cover the costs that would be incurred in satisfying those requests.

DEPUTY SPEAKER GODFREY:

Representative Hetherington.

DEPUTY SPEAKER GODFREY:

I thank the gentleman for his answers and I would urge passage. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on the Bill? Will you

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remark further on the Bill?

If not, staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is taking a roll call vote. Members to the chamber please.

DEPUTY SPEAKER GODFREY:

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a .

Mr. Clerk, please announce the tally.

THE CLERK:

Senate Bill 248, in concurrence with the Senate.

Total number voting	139
Necessary for adoption	70
Those voting Yea	139
Those voting Nay	0
Those absent and not voting	12

DEPUTY SPEAKER GODFREY:

The Bill is passed in concurrence with the Senate.

Will the Clerk please call Calendar 142?

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 3
657 - 950**

2012

REP. FOX: Next we have The Honorable Paul Knierim, Probate Court Administrator.

Good afternoon.

THE HON. PAUL KNIERIM: Good afternoon, Representative Fox, Senator Coleman, members of the committee. I'm Paul Knierim. I serve as probate court administrator.

There are two bills principally that my office, together with the Probate Assembly, the Statewide Association of Judges submitted for your consideration, and I very much appreciate that they raised those items. They are Bills Number 309 and 348. I will say that in both cases these are largely technical, operational, administrative proposals, and they're rather in the nature of a laundry list this year of -- of things combined in these proposals, and I won't go through that laundry list because I don't think it's interesting enough to take your time to do that. I'll just point out a couple of items that may be of particular interest.

(SB248)

In the Probate Court Operations Bill, that's, that's Raised Bill 309, Sections 1 through 4, the main thing that I wanted to point out is intended to be clarifying language with respect to the calculation of pension benefits for Probate judges who serve as special assignment Probate judges or as administrative judges in children's courts in addition to their duties in their local courts. The proposal would -- is intended to have retroactive effect because of its clarifying nature. It represents what the practice has been since the General Assembly first authorized those positions, and again, it's just intended to be clarified, not to make a

change in existing law.

Sections 8 and 9 of the bill, I think, are noteworthy both addressed in children's cases, a proposal that would enable the judge of a local court to on a court's own motion transfer a case involving either removal of parent as guardian or termination of parental rights to a regional children's court. The idea there is that we are working to try to have the services of the regional children's courts available throughout the state. They are not yet. You have authorized us to have a total of seven. We have five in place, and the Hartford Regional Court is, as we speak, in the works about to be open, and then, and then a Bridgeport court would follow, hopefully next year, funding willing, but the idea here is even in the interim to enable any court that has a case appropriate for a children's court to be able to transfer that case over to it.

The -- the final section I would note in Raised Bill 309 is Section 14. It pertains to proceedings for guardianship of adults with intellectual disability, and this is a change that would conform that statute to the way the conservatorship statute, since amended in 2007, operates with respect to the attorneys -- the role of the attorney representing a respondent in those cases. And the idea here is to make it crystal clear that the attorney's role is as advocate, not as guardian-ad-litem, an advocate who presents to the court the position that the respondent individual wishes to have advanced.

Raised Bill 238 concerning fees, just a very brief summary of that. It is principally aimed at cleaning up our fee statutes which use a whole host of different terms, fees,

(SB248)

charges, costs, expenses and instead streamline that to use just the term "fee," which I think is the more common usage anyway. It would also eliminate a couple of fees that have been on the books, but we feel would be appropriate to repeal them because they are inherently uncertain and therefore difficult to uniformly apply. And in the interest of fairness in Probate Court users, we think it would be better to be without those sections, and there is one additional new fee proposed. It is a \$25 fee for making available a digital copy of an audio recording of a hearing. This -- it's a very user-friendly proposal. I think the best way to understand it at present, we're able to make a transcript of a proceeding available to a party, a very expensive proposition. It can be hundreds of dollars to obtain a transcript. This instead would be a less expensive alternative to someone, for someone who wanted to hear what occurred in the proceedings perhaps over again or even for the first time.

Last, I'll just note there are two other bills on your agenda today that we are in support of, and they are 5287 concerning guardians ad litem and 5150 concerning the Uniform Adult Protective Proceeding Jurisdiction Act and that was to conservatorships with multistate involvement.

So I very much appreciate the opportunity to testify this afternoon.

REP. FOX: Thank you, Judge Knierim.

Are there any questions?

Representative O'Neill?

REP. O'NEILL: I'm not quite sure I haven't found

your testimony on the 5150, the uniform act, but are you -- is the court system in favor of that, your office and Probate Assembly supports the legislation?

THE HON. PAUL KNIERIM. Yes, we are. It will be a very useful rule to have specific guidelines for addressing situations where a person may be a respondent in a Connecticut court concerning conservatorship but may have involvement in the court of another state also. And so we think it would be very useful to have those rules. My understanding is that the count is something like 30 other states have adopted this provision.

REP. O'NEILL: Thank you, Mr. Chairman.

REP. FOX: Chairman Coleman.

SENATOR COLEMAN: Simple question: I -- I -- you mentioned two entities at the beginning of your testimony. One was the Probate Assembly and I don't recall what the other was that was in support of the bills that you spoke about.

THE HON. PAUL KNIERIM: I was referring to my office, the Probate Court Administrator. We -- although we are separate entities, we work jointly when it comes to legislative matters and have developed these proposals together.

SENATOR COLEMAN: Thank you.

REP. FOX: Thank you.

Are there any other questions? I see none.

Thank you very much, Judge Knierim.

THE HON. PAUL KNIERIM: Thank you.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 4
951 - 1300**

2012



STATE OF CONNECTICUT

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To: Senate Co-Chair Eric Coleman
House Co-Chair Gerald Fox
Senate Ranking Member John Kissel
House Ranking Member John Hetherington
Honorable Members of the Judiciary Committee

From: Paul J. Knierim
Probate Court Administrator

Re: RB No. 248 An Act Concerning Probate Fees

Date: March 5, 2012

Thank you for the opportunity to testify in support of Raised Bill No. 248, which is submitted jointly by the Probate Assembly and the Office of the Probate Court Administrator. The bill would make minor adjustments to the probate court fee structure.

Sections 1 through 8 seek to establish greater consistency in the terminology of the statutes governing probate fees. Currently several different terms are used to describe the amounts charged by the courts, including "costs," "fees," "charges" and "expenses." In the interest of consistency, the bill substitutes the word "fee" for all other terms.

Sections 2, 3 and 4 eliminate two fees that are not uniformly applied due to the difficulty in automating them in our case management system. The first authorizes courts to charge an additional \$25 whenever a petition requires more than one hearing. The second imposes a charge of \$25 per hour to the extent that the duration of a hearing exceeds one hour. Both fees represent the legacy of our former financial structure under which judges were compensated based upon court revenues and should be repealed now that judges are paid a salary established by statute.

Section 3 would codify existing practice by carving out an exception to the fees applicable in decedents' estates when the Department of Administrative Services (DAS) is appointed legal representative to administer the estate of a recipient of state assistance. Specifically, the bill would permit DAS to pay the lesser of the probate fee calculated using the fee tables and the amount actually recovered minus funeral expenses.

Section 5 establishes a new \$25 fee for a digital copy of the audio recording of a probate court hearing. The option of purchasing a digital recording rather than paying for a transcription of the hearing – often at a cost of several hundred dollars – will represent significant savings for many court users.

Finally, section 9 would repeal a now obsolete study and report provision enacted in 1995, when the state began phasing out the succession tax. The concern at the time was that probate fee revenue would fall precipitously when the succession tax was eliminated because the probate fee was based upon the succession tax. The study became unnecessary when the estate tax was substituted for the succession tax.

On behalf of the probate court system we urge the committee to act favorably on the bill. Thank you for your consideration.



Testimony to the Human Services Committee

March 5, 2012

By Nora Duncan, Executive Director

Testimony in support of:

Raised Senate Bill 248: AN ACT CONCERNING PROBATE FEES

Raised Senate Bill 309: AN ACT CONCERNING PROBATE COURT OPERATIONS

Raised House Bill 5367: AN ACT CONCERNING COMPETENCY TO STAND TRIAL

The Arc Connecticut is a 60-year old advocacy organization committed to protecting the rights of people with intellectual and developmental disabilities and to promoting opportunities for their full inclusion in the life of their communities.

The following are brief comments on three bills before the committee.

S.B. No. 248: AN ACT CONCERNING PROBATE FEES: The Arc Connecticut supports this bill and thinks that the revisions, elimination of additional fees, clarifying and conforming of language will be in the best interest Connecticut citizens, including individuals with intellectual and developmental disabilities and their families.

S.B. No. 309: AN ACT CONCERNING PROBATE COURT OPERATIONS: The Arc Connecticut supports this bill, most specifically the language additions around guardianship for persons with intellectual disabilities.

H.B. No. 5367: AN ACT CONCERNING COMPETENCY TO STAND TRIAL: The Arc Connecticut supports this bill; anything that promotes communication while protecting people's rights and liberties is a good thing.

Please do not hesitate to contact me with questions, for clarification or to arrange a visit with a private provider of community based services for individuals with intellectual and developmental disabilities in you area. Thank you for your time and consideration.

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2012**

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SENATE

34
April 27, 2012

Necessary for passage	17
Those voting Yea	31
Those voting Nay	1
Those absent and not voting	4

THE CHAIR:

The bill passes. We're going to, Senator Looney, can we take a small break for a moment for technical reasons. We'll have the Senate stand at ease.

(CHAMBER AT EASE.)

Senator Looney, our technical problems are corrected, and I didn't help, so we're okay. Senator Looney.

SENATOR LOONEY:

Yes, thank you, Madam President, for a couple of additional markings.

THE CHAIR:

Please proceed, sir

SENATOR LOONEY:

Yes, thank you, Madam President. First, for purposes of placing an item on the Consent Calendar, Calendar Page 33 under Matters Returned From Committee, Calendar Page 33, Calendar 295, Senate Bill Number 248 AN ACT CONCERNING PROBATE FEES. Madam President, would move to place that item on the Consent Calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President. Then as the next item marked Go that was previously marked pass temporarily, the item on Calendar Page 6, Calendar 263, Senate Bill 243 AN ACT CONCERNING CERTIFICATES OF MERIT. If that item might be marked go and called as the next item.

THE CHAIR:

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On Page 29, Calendar 138, Senate Bill Number 27.

Page 26, Calendar 88, Senate Bill 55.

On Page 34, Calendar 311, Senate Bill 101.

On Page 9, Calendar 321, Senate Bill 414.

On Page 1, Calendar Number 63, Senate Bill 227.

On Page 5, Calendar 225, Senate Bill 410.

And on Page 11, Calendar 332, Senate Bill 341.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, Madam President, if we might wait just a moment.
We needed to verify a couple of items before the
Consent Calendar is voted.

THE CHAIR:

Absolutely, sir.

THE CLERK:

And there is one more item. On Page 33, Calendar 295,
Senate Bill Number 248.

THE CHAIR:

Are any other additions or corrections that we can
see? If not, then Mr. Clerk, will you please call for
a roll call vote and the machine will be opened on the
Consent Calendar.

THE CLERK:

An immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll
call has been ordered in the Senate.

THE CHAIR:

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SENATE

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April 27, 2012

Have all members voted? If all members voted the machine will be locked. Mr. Clerk, will you please call the tally on the Consent Calendar.

THE CLERK:

On today's Consent Calendar.

Total number voting	35
Necessary for passage	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The Consent Calendar passes.

Right now I ask for points of personal privilege.
Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President. I rise for a point of personal privilege.

THE CHAIR:

Please proceed, sir.

SENATOR MCKINNEY:

Madam President, on my way up to the Capitol this morning I learned the sad news of the passing of a good friend, Jo McKenzie, who many of us in the circle, especially those of us who belong to the Republican Party, affectionately knew Joe McKenzie as Momma Jo.

I first met Momma Jo in the early 1970s as a young boy. She was always active in the Republican Party. In 1979 she was the first woman ever elected Chairman of the Connecticut Republican Party and for probably 15 years plus, served as Republican National Committee Woman from the State of Connecticut.

She was a wonderful woman, always with a laugh and fun, had an incredible sense of style as you may know.