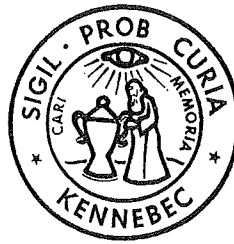


JAMES E. MITCHELL
JUDGE



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April 16, 2015

Hon. Senator David Burns
Hon. Representative Barry Hobbins
Judiciary Committee, Room 438
100 State House Station
Augusta, ME 04333-0100

In Re: LD 890 - An Act To Ensure a Continuing Home Court for Cases Involving
Children

Dear Honorable Judiciary Committee Members,

My name is Kathleen Grant Ayers from Manchester. I am the Register of Probate from Kennebec County and have worked in the Probate Court here for 22 years and have been Register for 19 years. I am currently the Chair of the Legislative Committee for the Maine Association of Registers of Probate.

The Registers of Probate are neither for nor against this legislation. However, many of the Registers are concerned about the logistics of how this piece of legislation would it be implemented, should it pass and would like to pose questions.

I want to back the train up for just a bit and talk about the Association, the Probate Court and the responsibilities of the Court and its role since most people don't know what we actually do until they need our services.

The role of the Probate Court is to protect the people who cannot protect themselves i.e, the incapacitated, mentally ill, the elderly and children. That is why my deceased husband's great great great uncle William King put protections for this court in the constitution.

Yes, things have changed, yet, they have not. Today our issues are adult children taking care of their parents, and grandparents or raising their grandchildren.

Issues of substance abuse and mental illness are the new plague of our time. We are not just about the administration of estates and trusts and the keepers of documents, we are about Maine families taking care of each other.

Our Association has been the picture of what government cooperation is supposed to be about. Our cooperative project Maineprobate.net is an on line docket system that provides statewide access to our dockets and images of current public court filings. By working together, we agreed on a system, which allowed counties to opt in individually, saving counties hundreds of thousands of dollars. We have a unified electronic filing system.

The Registers of Probate Association has worked together to train and help new Registrars, to develop new user friendly forms for the pro se public. We have worked to assist the Supreme Court Forms and Rules Committee whenever statutes or Court Rules have been amended to update existing procedures and forms. Our goal has been to be as user friendly as possible.

Relatives are left with the care of children when parents are unable for a variety of reasons, substance abuse, incarceration or just plain missing in action and sometimes military service.

The Court has situations where both parents consent to a guardianship and these types of proceedings are acted on very quickly. Other situations such as, when one or the other parent is not involved or is incarcerated and when relatives are concerned for the safety of a child and do not want to wait for the child to be in a jeopardy situation.

The size of the fiscal note should be a concern for the State Court system.

While you can easily ascertain how many new guardianship of minors and adoptions are opened in a year in each court it would not include motions on the hundreds of existing cases currently in the Probate Courts.

Most times cases have indigent parents entitled to legal counsel. Just one case last year cost Kennebec County over \$11,000 for example.

We have many questions about how transferring cases with our electronic system and District Court's system would work with our electronic somewhat paperless system.

How and when would it come to light that an order has been issued from the State Courts?

The concern perhaps is relatives often do not know of the existence of a parental rights order, they would not have access to that information.

Does this mean existing cases that the Probate Courts have been dealing with visitation issues and contempt issues for years would be transferred because of let's say an existing parental right's order of a parent who is missing in action, or who has never responded to notice?

Does this mean that an unhappy litigant could delay or move the case just by filing a PFO?

Our concerns also extend to the paper trail as an example, I will use adoption certificates in let's say Cumberland County. In confidential adoptions issues that we are dealing with now are the Federal Government's insistence on proof of adoption. Adult adoptees more than ever have to produce an adoption certificate. They have to petition to open a confidential record. Where would the adoptee go for that certificate? Would they have to petition all three State Courts in Cumberland and the Probate Court until they found the right one?

The Court itself would be in the same boat trying to ascertain whether a parental rights order has been issued prior to hearing.

I most likely could and would go on all day about the different situations that have come into play.

The broad language of this legislation is very concerning to us regarding guardianships of minors.

The exclusive part of this legislation also seems to unintentionally encompass testamentary guardianships, and joined conservatorships and guardianships of children when both parents are deceased.

When you pass laws, we the Registers have to implement them; we are the people behind the counter where the rubber meets the road. If more information is needed gladly the Registers will be available for any work session.

Taking cases from the Probate Court may benefit the understaffed Counties of the state. Guaranteed it will cause confusion for the public and the clerks on the front lines. This is already happening with the defacto parent law in District Court and I personally would like to avoid some of that with this legislation.

I just want to end by quoting the constitution for those who are not familiar with this provision.

Art 6 §6 of the Constitution is still in effect until “the legislature by proper enactment shall establish a different Probate Court system with full-time judges.”

The provision is there to make one system, if that is goal.

As always thank you so much for your time and service and I will try to answer any questions.

Respectfully submitted.


Kathleen Grant Ayers