

Estimated Costs and Savings - Probate Court Reform

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Question Posed: The Commission requested rough cost projections, to the extent possible, for a shift of the Probate Courts from the county level to the state Judicial Branch.

Limitations: The data upon which these projections were based are limited and incomplete. Some of the data were gathered in 2020, which may have been an anomalous year for the courts due to the COVID-19 pandemic and its effects. Many assumptions were built into the projections; these assumptions are described throughout this document. The projections included in the document should therefore not be assumed to be predictive of actual costs. In order to better calculate cost projections, more data is required.

A. Potential Costs to State of Proposed Probate Court System

1. Judges

Assumptions and Limitations:

- The estimates assume that the State Probate Court will be staffed by eight full-time judges;
- Compensation is based on 2019 figures for trial court judge salary; and
- No premium for a chief judge is included in the estimates.

Data source: [FY 19 Salary for Probate Judges from Registers of Probate](#)

Annual Costs

Reported annual Judicial Branch costs for a trial court judge (including salary, benefits, training, mileage, IT, law books) amount to \$206,031 (this does not include an estimated \$12,000 for onboarding in the first year of judicial service).

Total Annual Potential Cost for 8 judges = \$1,648,248

2. Law Clerks

Assumption: The Probate Court judges will be served by a total of 2 law clerks and paid at the same rate as the law clerks serving the other trial courts.

Data Source: [FY '23 data from Judicial Branch](#)

Annual Costs

Reported annual Judicial Branch costs for a law clerk (including salary, benefits, training, mileage, IT, and supplies) amount to \$107,676 (this does include \$6,000 in training and set up for the first year of service, as most clerks serve only a single year).

Total Annual Potential Cost for 2 law clerks: \$215,152

3. Other positions within the Judicial Branch

Other positions within the Judicial Branch that may be needed include administrative staff, court marshals, IT staff, custodial staff and others.

Annual Costs

Cost information for some of these positions is not available. However, reported annual Judicial Branch costs for a deputy marshal at step 3 (including salary, benefits, mileage, IT, training and other costs) amount to \$91,775.

4. Appointed Attorneys

Assumptions and Limitations

- These figures assume appointed attorneys will be paid the current MCILS rate of \$80 per hour.
- It is not clear that rates of attorney appointments in one county can be applied to the state as a whole;
- The rate of appointments in the future may vary significantly from the rate of appointments in 2020, especially given the effects of the pandemic; and
- The rate of appointments in a Probate Court system within the Judicial Branch may vary significantly from the current county-based system.

Data Sources: [2020 case load data from Registers of Probate](#); [2020 Probate Court budget information from Registers of Probate](#)

Annual Costs

The annual costs for appointed attorneys in a Probate Court system within the Judicial Branch is difficult to project. It is possible for rough estimates to be extrapolated based on current rates of appointment. It must be noted that appointment rates vary considerably by county.

For example, in the county reporting the lowest rate of attorney appointments (of those counties that did report data), Lincoln County, 20 court appointed attorney hours were reported in 2020. Lincoln County also reported a total case load of 470 cases for the same year. This equates to a rate of .0426 appointed attorney hours per single case. If this ratio is applied to the total statewide probate caseload reported in 2020 (12,822 cases), a total of 546 attorney appointed hours is reached. Multiplied by the current MCILS rate of \$80 per hour, this amounts to an estimated statewide cost for appointed attorneys of \$43,680.

At the other end of the spectrum, Kennebec County reported 212.7 appointed attorney hours for 2020. Kennebec County also reported a total case load of 1317 cases for the same year. This equates to a rate of .1615 appointed attorney hours per single case. If this ratio is applied to the total statewide probate caseload reported in 2020 (12,822 cases), a total of 2,071 attorney appointed hours is reached. Multiplied by the current MCILS rate of \$80 per hour, this amounts to an estimated statewide cost for appointed attorneys of \$165,680.

This approach yields a range of estimates of costs to the state for court appointed attorneys throughout the Probate Court system, from \$47,200 a year if Lincoln County is used as a reference point to \$165,680 if Kennebec County is used as a reference point. The other counties that reported appointed attorney hours (Oxford, Piscataquis, Sagadahoc Somerset, and Waldo) have rates of appointed attorney hours per case that fall in between the rates calculated for Lincoln and Kennebec counties.

It is important to note that the above estimates likely underrepresent the proportion of cases that involve appointed counsel. This is because the denominator used (the entire caseload of the reference county) is the full caseload of the court. However, only certain types of cases typically involve appointed counsel. Because data is not available that specifies the matters for which counsel is routinely appointed, the entire caseload was used in the above calculations.

It is also likely that a statewide Probate Court system would experience different rates of attorney appointments than can be modeled based on the data available. Factors driving attorney appointments in one county may vary significantly from factors driving appointments in other counties. Also, the reported data used in the calculations herein are from 2020, and levels of appointments may have been impacted by the COVID-19 pandemic. Finally, the fact that funding for attorney appointments would be sourced differently than at the county level may impact rates of appointment.

5. Guardians Ad Litem

Assumptions and Limitations:

- These figures assume GALs will be paid the current MCILS rate of \$80/hr.
- It is not clear that rates of GAL appointments in one county can be applied to the state as a whole
- The rate of appointments in the future may vary significantly from the rate of appointments in 2020, especially given the effects of the pandemic.
- The rate of appointments in a Probate Court system within the Judicial Branch may vary significantly from the current county-based system

Data Sources: see [2020 case load data from Registers of Probate](#); [2020 Probate Court Budget information from Registers of Probate](#)

Annual Costs

As is the case with appointed attorneys, the annual cost for guardians ad litem in a Probate Court system within the Judicial Branch is difficult to project. Rough estimates can be extrapolated based on current rates of appointment, though GAL hours were only reported by two counties for the year 2020.

Built into these calculations is the assumption that GALs will be paid the current MCILS rate of \$80/hr. Note that pursuant to order of the Supreme Judicial Court on July 30, 2020, GALs are to be paid “the same hourly rate paid to attorneys appointed to represent parents in child protection proceedings.” The MCILS rate of \$80 per hour applies as of July 1, 2021.

Kennebec County reported 71.5 GAL hours in 2020. Kennebec County reported a total case load of 1,317 cases for the same year. This equates to a rate of .0543 appointed attorney hours per single case. If this rate is applied to the total statewide probate caseload reported in 2020 (12,822 cases), a total of 696 GAL hours is reached. Multiplied by the current MCILS rate of \$80/hr., this amounts to an estimated statewide cost for appointed attorneys of \$55,680.

Sagadahoc County reported 83.5 GAL hours for 2020. A total case load of 341 cases were reported for the same year. This equates to a ratio of .2449 appointed attorney hours per single case. If this ratio is applied to the total statewide probate caseload reported in 2020 (12,822 cases), a total of 3,140 attorney appointed hours is reached. Multiplied by the current MCILS rate of \$80/hr., this amounts to an estimated statewide cost for GALs of \$251,200.

This approach provides very different projections depending on which county's data is used for the purposes of extrapolation. Given the great discrepancy in GAL appointments between the two counties that reported data, it seem likely that additional discrepancies exist in other counties. Also, as with the attorney appointments, the rate of GAL appointments may be underestimated in the above calculations because the denominator used is the entire caseload rather than only the specific types of matters in which GALs are appointed. More data is needed to predict GAL costs.

6. Visitors

Data Sources: [2020 case load data from Registers of Probate](#); [2020 Probate Court Budget information from Registers of Probate](#)

Annual Costs

Because county data has not been provided regarding the cost of appointed visitors, a future cost cannot be calculated. However, two counties did report the number of visitor hours per year. Kennebec reported 390.5 visitor hours. Kennebec County reported a total case load of 1317 cases for the same year. This equates to a ratio of .2965 visitor hours per single case. Sagadahoc County reported 15.2 visitor hours. A total case load of 341 cases were reported for the same year. This equates to a ratio of .0115 appointed attorney hours per single case.

The data available is insufficient to make projections about the cost of appointed visitors in a statewide Probate Court system, especially given the great discrepancy between appointment rates at the two counties that did report data. In addition, it is impossible to estimate the cost of visitor appointments using the limited data available without knowing what hourly rate will be paid to visitors.

7. Facilities and Supplies

Non personnel costs the State may need to account for in a transition of the Probate Court to the Judicial Branch include, but are not limited to, the following:

- Building Lease/ Rent
- Maintenance
- Utilities
- Supplies

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- Technology
- Equipment
- Mailing Costs

8. Other

There may be other costs associated with transitioning the Probate Court system to the Judicial Branch that are not accounted for in this document

B. Potential Savings to Counties for Proposed Probate Court System

1. Judges

Data Source: [FY 19 Salary for Probate Judges, from Registers of Probate](#)

Below are the 2019 salaries of Probate Judges as provided by Registers of Probate. These figures do not include benefits or any other compensation beyond salary. Counties would no longer incur these costs were the Probate Courts to transition to the Judicial Branch.

County	Judge Salary
Androscoggin	
Aroostook	\$36,600
Cumberland	\$55,000
Franklin	
Hancock	\$27,322
Kennebec	\$35,955
Knox	
Lincoln	
Oxford	\$30,129
Penobscot	\$41,101
Piscataquis	\$25,000
Sagadahoc	\$30,265
Somerset	\$33,018
Waldo	
Washington	
York	\$48,800

2. Other Positions

Counties may experience savings for certain other positions, including administrative staff, IT staff, custodial staff and others.

3. Court Appointments

Counties would no longer incur the costs of court appointments for appointed attorneys, guardians ad litem and visitors were the Probate Courts to transition to the Judicial Branch.

4. Facilities and Supplies

Counties may incur certain reduced facility and supply costs, including for the following:

- Building Lease/ Rent
- Maintenance
- Utilities
- Supplies
- Technology
- Equipment
- Mailing Costs

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