

**CONSENT CALENDAR**

**February 3, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Judiciary to which was referred HB  
1140,**

**AN ACT relative to probate procedures for small  
estates. Having considered the same, report the same  
with the following resolution: RESOLVED, that it is  
INEXPEDIENT TO LEGISLATE.**

**Rep. Kurt Wuelper**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Judiciary</b>
Bill Number:	<b>HB 1140</b>
Title:	<b>relative to probate procedures for small estates.</b>
Date:	<b>February 3, 2022</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### STATEMENT OF INTENT

This bill would establish a simple probate procedure for small estates. Unfortunately, the process proposed involves paper documents for which the all-electronic probate court is not equipped to handle. Further, the bill provided no process to notify debtors, including the state, who testified we could lose a million dollars or more annually from this failure.

Vote 20-1.

Rep. Kurt Wuelper  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Judiciary

**HB 1140**, relative to probate procedures for small estates. **INEXPEDIENT TO LEGISLATE.**

Rep. Kurt Wuelper for Judiciary. This bill would establish a simple probate procedure for small estates. Unfortunately, the process proposed involves paper documents for which the all-electronic probate court is not equipped to handle. Further, the bill provided no process to notify debtors, including the state, who testified we could lose a million dollars or more annually from this failure.

**Vote 20-1.**

Original: House Clerk

Cc: Committee Bill File

**HOUSE COMMITTEE ON JUDICIARY**

**EXECUTIVE SESSION on HB 1140**

**BILL TITLE:** relative to probate procedures for small estates.

**DATE:** February 3, 2022

**LOB ROOM:** 206-208

**MOTIONS: INEXPEDIENT TO LEGISLATE**

Moved by Rep. Wuelper

Seconded by Rep. Gordon

Vote: 20-1

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Kurt Wuelper, Clerk



2021 SESSION

Judiciary

Bill #: HB1140 Motion: ITC AM #: \_\_\_\_\_ Exec Session Date: 2-3-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	✓		
McLean, Mark Vice Chairman	✓		
Sylvia, Michael J.	✓		
Wuelper, Kurt F. Clerk	✓		
Alexander, Joe H.	✓		
<del>Rice, Kimberly A.</del> EDWARDS	✓		
<del>Silber, Norman J.</del> MERNER	✓		
Greene, Bob J.	✓		
Kelley, Diane E.	✓		
Tausch, Lindsay ANDRUS	✓		
Trottier, Douglas R.	✓		
Smith, Marjorie K.	✓		
Berch, Paul S. woods		✓	
Horrigan, Timothy O.	✓		
DiLorenzo, Charlotte I.	✓		
Chase, Wendy	✓		
Kenney, Cam E.	✓		
Langley, Diane M.	✓		
McBeath, Rebecca Susan	✓		
Paige, Mark	✓		
Simpson, Alexis	✓		

*Kurt Wuelper*

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HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1140

**BILL TITLE:** relative to probate procedures for small estates e

**DATE:** 1/13//2022

**LOB ROOM:** 206-208

**Time Public Hearing Called to Order:** 9:30 AM

**Time Adjourned:** 10:10 AM

**Committee Members: Reps. Gordon, McLean, Wuelper, Sylvia, Alexander Jr., Notter, Merner, Greene, D. Kelley, Andrus, Trottier, M. Smith, Berch, Horrigan, DiLorenzo, Chase, Kenney, Langley, McBeath, Paige and Simpson**

**Bill Sponsors: Rep Terry, Belk. 5; Rep. Silber, Belk. 2; Rep. Sylvia, Belk. 6; Rep. Potucek, Rock.6; Rep. Hunt, Ches. 11; Rep. Alliegro, Graf. 7; Sen. French, Dist 7; Sen. Giuda, Dist 2,**

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**\*Rep. Terry Sponsor**

This bill will provide a simplified procedure for small estates. Having been executor of other small estates, I seek to bring the best into NH. Most states have a process for small estates to be handled quickly and easily. "Summary" or "Simplified" estates save time and money when the estate value is below a statutory limit without court hearings. A petition asks for use of this procedure and there is a will. Then a list of assets in the state is filed and a waiting period of a month or two gives creditors a chance to make claims. After that, the executor pays the claims, distributes the remaining assets, and files a summary with the court. 34 Other states have Summary estate laws with varying limits. The threshold of \$25,000 is just one option and making the number higher is fine with me. No state has repealed this kind of law.

**Q DiLorenzo:** Does your bill include the value of an automobile?

**Ans:** I don't think so, it would fall within the established limit.

**Q** Should we exclude the value of an auto?

**Ans:** I see no reason not to.

**Rep Silber Belk 2 Cosponsor**

I have done over a hundred trusts and estates. The similar Florida law has a \$75,000 limit and, with no contest, everything is done electronically. The average citizen has little contact with the legal system, The probate process is confusing and not understood by the people. I support simplifying the system for small estates. We have a backlog in the system and this would help reduce the burden on the courts and, more important, on the people.

**Q Chase:** Does the deceased need to leave an executor?

**Ans:** I don't think so. We have intestate laws and if you have no will, the stat says how the estate will be handled.

**Q DiLorenzo:** The bill set a limit "excluding tangible property", does that exclude real estate?

**Ans:** Real estate will have to go through probate.

**Judge David King Administrative Judge over Probate courts: Information only**

The bill assumes the old system of court hearings for small estates, which has been modernized to where there are hardly any hearings for these cases now. NH did have a law with a \$25,000 that didn't work and we tried to fix it without success. Estates under \$25,000 are resolved pretty quickly. I think this would actually extend the process and open doors for problems. There is no requirement for an inventory and we've seen many small estates that started below the limit but inventory raised the value above it. The bill includes no notice requirement so I wonder if creditors would even know there was an estate. About current law allows autos to be retitled without probate.

There is apparently no requirement for a final account. There is no mention of those with small estates and a will. We do have a "waiver of administration" which could be expanded if you desire. We have procedures of open administration with no filing fees for that. We have a standard form for waiving filing fees and routinely do that for small estates.

**Q Kenney:** Can you speak to the 34 other states that have these laws working?

**Ans:** No. We don't have a uniform estate law and we have the waiver of administration procedure and I think our system is working well.

**Atty Robert wells Self**

Our firm has waived administration fees for small estates. I think we should be proud of our system. We have protected creditors. Judge King mentioned the notification issue which is a real one. With electronic filing we have a simple process where we send the official documents to the court and interested parties are notified by the court. The small estate is a place where one sibling could disadvantage others simply by not notifying them.

**Jannelle Laylagian HHS Information only.**

The bill has issues that will cause problems for the Dept, most important it fails to provide for expenses in an estate where gthe Dept. has priority over other creditors. There is a potential for us to lose over \$1 million per year and additional loss of revenue to the Counties. Creditors are supposed to get 6 months' notice per Federal law and this would contravene that. I think NH is very progressive in handling small estates. This bill will remove important protections for other heirs as well. We have procedures outside the court system and in addition to help with small estates. The question of a check coming in after the estate is closed is not a significant one.



Rep Kurt Wuelper





# House Remote Testify

## Judiciary Committee Testify List for Bill HB1140 on 2022-01-13

Support: 2 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
French, Senator Harold	Canterbury, NH kathryn.cummings@leg.state.nh.us	An Elected Official	Senate District 7	Support	No	No	1/5/2022 1:43 PM
Giuda, Bob	Warren, NH bob.giuda@leg.state.nh.us	An Elected Official	Senate District 2	Support	No	No	1/5/2022 7:05 PM

**Archived:** Wednesday, March 16, 2022 10:52:08 AM

**From:** PAUL TERRY

**Sent:** Tuesday, January 18, 2022 1:21:10 PM

**To:** ~House Judiciary Committee

**Subject:** Requested Sponsor Testimony and Supporting Documents re: HB 1140

**Importance:** Normal

**Attachments:**

[NH House Bill 1140 - Testimony - 01.13.2022.pdf](#)  [NH House Bill 1140 - Testimony - Supporting Documents - 01.13.2022.pdf](#) 

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Dear colleagues and members of the House Judiciary Committee;

As per your request, I am attaching a copy of my sponsor testimony (January 13, 2022) in support of HB 1140, along with supporting documents.

In addition, please permit me to address several concerns and objections I heard from the last three individuals who testified. Were these concerns and objections confined to preferences I would not address them. However, much of what I heard from those who testified following Representative Silber (supporting HB 1140) left me stunned and in disbelief. I will explain as follows:

I heard Judge King finding HB 1140 as presented deficient in a number of respects. I recall him saying that the bill (which I reiterate is essentially Rhode Island's law for summary administration of small estates) lacked: 1) a requirement for an inventory of the items and their values comprising the estate; 2) a requirement of notice to potential creditors; and 3) no specification of the time in months during which the estate must be held open.

As I testified, the Rhode Island law is the one under which I was governed as the executor of my mother's estate. During an informative and cordial conversation with Judge King immediately following the closing of the hearing on HB 1140, I asked Judge King if he could conceive of the State of Rhode Island not requiring any or all of the deficiencies he claimed plague HB 1140. I proceeded to tell him that in fact an inventory of my mother's estate had been required, public notice given to potential creditors and a waiting period of six months imposed before I was able to move for the final settlement of the estate. Clearly, these could not have been arbitrary requirements, but rather ones that were specified in statutes governing ALL estates. And, according to Judge King, in fact all of these requirements are to be found in New Hampshire's "scattered here and there" provisions for the administration and settlement of estates.

Since Judge King did not suggest a preference for HB 1140 to include language indicating that "except as contained within this bill all other lawful requirements applying to the probating of estates be applicable," I am doing so. Upon your request, I will get with OLS on the language before submitting it to you in the form of an amendment.

The larger issue here as disclosed to me by Judge King is that New Hampshire probate law is not unified. He told me that what we have for probate law in New Hampshire has a long history of adding or making changes to law in a variety of places. In so doing, he may have inadvertently provided support to my appeal for a simplified summary administration of small estates. While those who have gained proficiency in the intricacies of our probate provisions do not have a problem with things the way they are, there are those of us like the citizens of 34 other states who would appreciate being able to source probate law without having to go on a veritable treasure hunt.

I recall that the individual who testified for DHHS had two unique objections to HB 1140 as presented. As I recall, one would require DHHS employees to have to learn a new way of doing things. Pity sakes! This is a serious objection? A second objection was that DHHS might lose out on being paid any full amount that the small estate would owe DHHS. This objection could be remedied easily by amending the bill to give priority to DHHS in payments to creditors.

In short, none of the “objections” raised by the three persons testifying following Representative Silber are deal breakers. Either they are not true deficiencies or are concerns that can quickly and easily be addressed without my objection.

Should you so desire, I continue to be pleased to be available to you as you continue your consideration of this important measure.

Sincerely,

*Paul Terry*

Rev. Paul A. Terry  
Member - NH House (Belknap-5)  
House Commerce and Consumer Affairs Committee  
915 Stockbridge Corner Rd.  
Alton NH 03809

HB 1140 - AS INTRODUCED

2022 SESSION

22-2220

04/05

HOUSE BILL            **1140**

AN ACT                relative to probate procedures for small estates.

SPONSORS:            Rep. Terry, Belk. 5; Rep. Silber, Belk. 2; Rep. Sylvia, Belk. 6; Rep. Potucek, Rock. 6; Rep. Hunt, Ches. 11; Rep. Alliegro, Graf. 7; Sen. French, Dist 7; Sen. Giuda, Dist 2

COMMITTEE:          Judiciary

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ANALYSIS

This bill establishes a procedure for the voluntary informal administration of small estates.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to probate procedures for small estates.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Section; Administration of Small Estates; Informal Administration of Small Estates.  
2 Amend RSA 553 by inserting after section 31-a the following new section:

3 553:31-b Informal Administration of Small Estates.

4 I. If a resident of New Hampshire dies leaving an estate consisting entirely of personal  
5 property the total value of which, exclusive of tangible personal property of which the decedent was  
6 owner, does not exceed \$25,000 in value, his or her surviving spouse, child, grandchild, parent,  
7 brother, sister, niece, nephew, aunt or uncle, or any interested party, if of full age and legal capacity  
8 and a resident of this state, may, after the expiration of 30 days from the death of the decedent,  
9 provided no petition for letters testamentary or letters of administration has been filed with the  
10 probate court of the city or town in which the decedent resided, file with said probate court upon a  
11 form prescribed by the court a statement, verified by oath or affirmation containing:

12 (a) The name and residential address of the affiant,

13 (b) The name, residence, and date of death of the deceased,

14 (c) The relationship of the affiant to the deceased,

15 (d) A schedule showing every asset known to the affiant titled solely in the decedent's  
16 name and all assets known or believed to be titled in the decedent's name as of the decedent's date of  
17 death, and the estimated value of each such asset,

18 (e) A statement that the affiant has undertaken to act as voluntary administrator of the  
19 estate of the deceased and will administer the same according to law, and apply the proceeds thereof  
20 in conformity with this section, and

21 (f) The names and addresses known to the affiant of the persons who would take under  
22 the provisions of New Hampshire law in the case of intestacy.

23 II. Upon presentation of such statement, accompanied by a certificate of the death of the  
24 deceased and payment of a fee of \$30, the clerk of the probate court shall file these documents as a  
25 part of the permanent record of the court. Upon the payment of \$5, the clerk of the probate court  
26 shall, if no other probate proceeding for administration of such estate is pending in said court, issue  
27 a certification of appointment of voluntary administrator, but only after such certification has been  
28 reviewed by the judge of the probate court. No hearing in the probate court shall be required as a  
29 condition for the issuance of the certification by the clerk of the probate court; provided, however,  
30 that the probate judge may require a hearing to take place in order to determine whether such  
31 certification should issue.

**HB 1140 - AS INTRODUCED**

**- Page 2 -**

1           III. Upon the presentation of a copy of such a certification of appointment by the clerk of the  
2 probate court, the tender of a proper receipt in writing and the surrender of any policy, passbook,  
3 note, certificate, or other evidentiary instrument, a voluntary administrator may, as the legal  
4 representative of the deceased and his or her estate, receive payment of any debt or obligation in the  
5 nature of a debt, or delivery of any chattel or asset, scheduled in such statement. Payments and  
6 deliveries made under this section shall discharge the liability of the debtor, obligor or deliverer to  
7 all persons with respect to such debt, chattel, obligation or other asset unless, at the time of such  
8 payment or delivery, a written demand has been made upon such debtor, obligor or deliverer by a  
9 duly appointed executor or administrator.

10           IV. A voluntary administrator may sell any chattel so received and negotiate or assign any  
11 choice in action to convert the same to cash in a reasonable amount.

12           V. A voluntary administrator shall, as far as possible out of the assets which come into his  
13 or her hands, first discharge the necessary expenses of the funeral and last sickness of the deceased  
14 and the necessary expenses of administration without fee for his or her services, and then pay the  
15 debts of the deceased in the and any other debts of the estate, and then distribute the balance, if  
16 any, to the surviving spouse, or, if there is no surviving spouse, to the persons and in the proportions  
17 prescribed in New Hampshire law.

18           VI. A voluntary administrator shall be liable as an executor in his or her own wrong to all  
19 persons aggrieved by his or her administration of the estate, and, if letters testamentary or letters of  
20 administration are at any time granted, shall be liable as such an executor to the rightful executor or  
21 administrator.

22           2 Effective Date. This act shall take effect 60 days after its passage.