



The Voter

January 2011

League of Women Voters of Sumter County

Judicial Diversity Probate Court

Judge Dale Atkinson made the third presentation in our series on "Judicial Diversity in South Carolina" at 6:00 PM on Monday, December 13, 2010 in the Seminar Room of CCTC's Health Sciences Building on South Main Street. Judge Atkinson was just reelected to his third term as Judge of Probate for Sumter County.

Born and raised in Sumter County, Judge Atkinson served for 27 years with the Sumter Police Department, retiring in 2002 as a Major. He is married with three children and four grandchildren. He currently serves as Vice President, SC Association of Probate Judges.

The position of Probate Judge is the only one that is elected by the citizens of each county to four-year terms. There are 46 Judges of Probate, 25 of which are female and 2 are African-American. By standing for election every four years, Probate Judges are evaluated by their fellow citizens on how well they serve their constituents.

Judge of Probate provides four services for their county. Their office issues Marriage Licenses, can order Emergency Commitment for individuals with mental or addiction problems, appoints Conservators and/or Guardians for minor children and individuals needing assistance in managing their affairs, and Probating the estates of deceased citizens. To assist Judge Atkinson in the administration of his duties, there is one Associate Judge, one Deputy Judge and two clerks.

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January Annual Membership Meeting

League of Women Voters of Sumter County

6:00 PM, Monday, January 10, 2011

Topic: Legislative Issues

Speakers: Sumter County Legislative Delegation

Location: Central Carolina Technical College

New Health Sciences Center

Seminar Room

133 South Main Street

Sumter, SC 29150

Contact: Dawn Adkins (803) 774-3337

Dues are due: \$45.00.



Mark Your Calendars!

Future Programs

February 14, 2011

6:00pm

March 14, 2011

6:00pm

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There are between 800 and 1000 marriage licenses issued in Sumter County annually. Both parties must provide identification and sign the application. The fee is \$50. The couple must wait twenty-four hours before they can obtain the actual Marriage License. The license does not expire. The couple can marry anywhere in the state. If one party is under 18, they must obtain parental consent before the license can be issued.

Judge of Probate may issue an Order for Emergency Commitment of an individual against their will for a person with mental or addiction problems. The court receives about one request per day. The 'requestor' must first meet with Mental Health and get agreement from them that an Order should be issued. When issued, a law enforcement agency executes the Order and transports the individual to a doctor, a hospital, or another facility for immediate medical evaluation. Alternatively, an individual may request a formal hearing before the court to determine the proper course of action. In any event, the individual must be evaluated by the custodial agency every seven days and the results reported to the court for review. The state pays for those who are without insurance.

Court of Probate may appoint a "Conservator" for an individual who needs assistance in the management of their assets. A conservator is appropriate for a minor child who needs help managing money from, for example, an estate or insurance settlement. Conservator may be appointed to assist an older person who needs help in managing their assets. A hearing must be held to appoint an individual as either a Conservator or a Guardian. For adults, statements from two doctors are required before the appointment can be made. For minors, money is placed in a "restricted account" with a bank with the understanding that all withdrawals must be court approved. A Conservator receives a fee of 5% of the assets to be managed, not including real estate. Probate Court receives periodic reports and monitors the activities of the conservator.

A "Guardian" is a person who is appointed to make decisions for a child or a person determined to be not competent to make their own decisions. The Family Court may appoint a Guardian for a child, but the Probate Court appoints a Guardian for those over 18.

An attorney must be appointed for the protected person and is known as "Guardian ad Litem."

The fourth function of Judge of Probate, and the one that will eventually affect all citizens, is Probation of an Estate. The assets of every deceased person must pass through the Probate Court, whether there is a Will or not, to insure that the assets, if any, pass to the legally established heirs. A Will provides for the division of the estate; the lack of a Will results in the estate being divided according to South Carolina law. Even if the Will is not contested and the heirs agree to the division of the estate, the process takes between 8 and 9 months since creditors of the deceased must be notified and given a change to file their claims against the estate.

The law requires that a Will must be filed with Probate Court within thirty days of death, but there are cases where it was not filed for more than ten years. In that case, a lawyer must prepare a "Determination of Heirs" and bring that Petition to Probate Court for approval. Estates under \$10,000 can be handled through a Small Estate Affidavit if there is no real estate involved. One final note, an individual may not prevent their spouse from receiving the "spousal share" of their estate even if they have a Will. Under South Carolina law, the legal spouse must receive a minimum of 33% of the estate.

The Sumter League wishes to thank Judge Atkinson for a most interesting and informative presentation on the duties and responsibilities of a Judge of Probate. There were many nuances in the laws that govern each of the four areas discussed above. I'm sure that Judge Atkinson and his staff are called upon to make difficult decisions each and every day. We thank him for his service, and we thank him for his presentation.

In closing, may I remind you that our next membership meeting will be held on Monday, January 10, 2011 at 6:00 PM in the Seminar Room, CCTC's Health Sciences Building on South Main Street. Our program will be our Annual Meeting with the Sumter County Legislative Delegation. In the past, Senator Leventis and Representatives Smith and Weeks have discussed their assessment of the issues that will be considered for action during the coming session of the State Legislature. With a new governor, there are many questions concerning priorities and areas of cooperation. Please put this important meeting on your calendar and make a point to attend.

Chuck Gibbs, President

Positions on Illegal Drugs Adopted by the LWV Charleston Area May 2010

Illegal drug use should be considered a public health issue, and drug addiction should be addressed by substance abuse treatment programs instead of incarceration.

1. We support the following preventive measures:
 - Educational programs aimed at keeping children from using drugs;
 - Public education programs about tobacco's role as a gateway drug to illegal drug use;
 - Mandatory substance abuse education in all SC schools, public and private;
 - Educational programs about illegal drugs directed to adults;
 - Sterile needle and syringe programs for illegal drug users to prevent blood-borne diseases.
2. Official drug laws and policies should include:
 - Drug treatment programs as an alternative to incarceration;
 - Legal possession of medical marijuana, when prescribed by a physician;
 - Reliable and equitable state funding for all county drug courts.
3. Drug-addicted pregnant women should be given priority placement in drug abuse treatment programs. We do not support criminal charges for the mother in cases where the newborn tests positive for drugs.
4. Adults who possess marijuana for personal use, adults who sell marijuana to other adults for personal use, and adults who possess illegal drugs other than marijuana for personal use, should at most be charged with a civil offense (which may include a fine), rather than a criminal offense (which may result in incarceration).*
5. Programs for substance abuse treatment should be funded by all levels of the government, the private sector, and the drug user, with a sliding scale based on the ability to pay.
6. Any public fund savings resulting from the use of alternatives to incarceration should be used to support substance abuse treatment programs.

* Note that the sale of any drug other than marijuana would continue to be a criminal offense.



60 pounds of marijuana valued at more than \$100,000 seized by the Sumter County Sheriff's Office.

Illegal Drugs in South Carolina

The Charleston Area League (LWVCA) conducted a year-long study on illegal drugs in South Carolina. Based on this study and public programs on the issues, the Charleston League adopted by consensus six positions (left).

The LWVCA is asking local Leagues to let the LWVSC Board know that their League wants these positions to be presented for a vote on concurrence at the LWVSC state convention in May in Sumter. Doing this will not mean that your League agrees with any of the positions—it only means your League believes members at the convention should have the opportunity to vote on whether the LWVSC should adopt the Charleston positions by concurrence.

The LWVCA's full study report ("Mapping the Elephant: Illegal Drugs in South Carolina") and a summary report are available on their website for local Leagues to review at www.lwvcharleston.org. Additional printed copies are available on request.

South Carolina Racial and Gender Diversity

Composition of South Carolina Population:

Racial Diversity:
 Caucasian—68%
 African-American—30%
 Other—2%

Gender Diversity:

Female—52%
 Male—48%

Composition of South Carolina Courts:

Supreme Court (5):
 Male—3 Female—2 African/American—1

Appellate Court (9):
 Male—7 Female—2 African/American—1

Circuit Court (48):
 Male—42 Female—6 African/American—5

Family court (59)
 Male—39 Female—20 African/American—7

Probate Court (46)
 Male—21 Female—25 African/American—2

Source: Data provided by the LWVSC. Data does not provide break out of gender of African-American judges.

Legislative Issues

A partial listing of the issues that the Legislative Delegation will address at the January 10, 2011 membership meeting is in the Sumter LWV December 2010 newsletter on page 3.



Sumter County LWV Local Officers

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