



General Assembly

January Session, 2003

Raised Bill No. 6558

LCO No. 3836

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING PROBATE COURT FUNDING, RETIREMENT AND PROCEDURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-36a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) For the purposes of this section, "merged" or "merger" means the
4 consolidation of two or more probate districts, with the resulting
5 probate district in existence on or before January 3, 2007.

6 (b) Any judge of probate [in office on or after October 1, 1997,]
7 whose probate district is merged with another district pursuant to an
8 act of the General Assembly that is enacted in the year 2003 and who
9 has not been elected to a term [which] that begins at the time of, or
10 subsequent to, such [consolidation] merger, (1) may elect to receive
11 four years of credited service, [as defined in subdivision (2) of section
12 45a-34,] (2) may elect to receive a reduction of [his] such judge's
13 retirement age of not more than four years pursuant to subsection (a)
14 of section 45a-36, or (3) may elect any combination of subdivisions (1)
15 and (2) of this [section] subsection, provided such combination shall

16 not exceed four years in total.

17 (c) Any judge of probate whose probate district is merged with
18 another district pursuant to an act of the General Assembly that is
19 enacted in the year 2004 and who has not been elected to a term that
20 begins at the time of, or subsequent to, such merger, (1) may elect to
21 receive three years of credited service, (2) may elect to receive a
22 reduction of such judge's retirement age of not more than three years
23 pursuant to subsection (a) of section 45a-36, or (3) may elect any
24 combination of subdivisions (1) and (2) of this subsection, provided
25 such combination shall not exceed three years in total.

26 (d) Any judge of probate whose probate district is merged with
27 another district pursuant to an act of the General Assembly that is
28 enacted in the year 2005 and who has not been elected to a term that
29 begins at the time of, or subsequent to, such merger, (1) may elect to
30 receive two years of credited service, (2) may elect to receive a
31 reduction of such judge's retirement age of not more than two years
32 pursuant to subsection (a) of section 45a-36, or (3) may elect any
33 combination of subdivisions (1) and (2) of this subsection, provided
34 such combination shall not exceed two years in total.

35 (e) Any judge of probate whose probate district is merged with
36 another district pursuant to an act of the General Assembly that is
37 enacted in the year 2006 and who has not been elected to a term that
38 begins at the time of, or subsequent to, such merger, (1) may elect to
39 receive one year of credited service, or (2) may elect to receive a
40 reduction of such judge's retirement age of not more than one year
41 pursuant to subsection (a) of section 45a-36.

42 Sec. 2. Section 45a-56 of the general statutes is repealed and the
43 following is substituted in lieu thereof (*Effective October 1, 2003*):

44 (a) Notwithstanding the provisions of section 5-259, the
45 Comptroller, with the approval of the Attorney General and the
46 Insurance Commissioner, shall arrange and procure a group

47 hospitalization and medical and surgical insurance and dental
48 insurance plan for the probate judges and employees retirement
49 system with coverage equal to that available under section 5-259, or
50 otherwise available, to retired state employees and their spouses and
51 surviving spouses.

52 (b) Any member of the probate judges and employees retirement
53 system who is retired and receiving benefits from such system, and the
54 spouse of any such member, and upon the death of any such member,
55 such member's surviving spouse, while receiving benefits from such
56 system, may elect to participate in the group insurance plan procured
57 by the Comptroller under subsection (a) of this section.

58 (c) [The premium charged for any such member and spouse or
59 surviving spouse who elects to participate in the group hospitalization
60 and medical and surgical portion of such coverage shall be paid from
61 the retirement fund established pursuant to section 45a-35. Twenty per
62 cent of the premium charged for any such member and spouse or
63 surviving spouse who elects to participate in the group dental portion
64 of such coverage shall be paid from said retirement fund, and the
65 remainder of the premium for such coverage shall be paid by the
66 participant.] Not more than one hundred per cent of the portion of the
67 premium charged for coverage for any such member and spouse or
68 surviving spouse who elects to participate in the group insurance plan
69 procured by the Comptroller under subsection (a) of this section shall
70 be paid from the Probate Court Administration Fund established by
71 section 45a-82. The remainder of the premium for such coverage shall
72 be paid by such member and spouse or surviving spouse to the State
73 Treasurer. Payment shall be credited by the State Treasurer to the fund
74 established by section 45a-82. The total premiums payable shall be
75 remitted by the Probate Court Administrator directly to the insurance
76 company or companies or nonprofit organization or organizations
77 providing the coverage. The Probate Court Administrator shall issue
78 rules governing group hospitalization and medical and surgical
79 insurance and dental insurance in accordance with section 45a-77.

80 [(d) Any such member and spouse or surviving spouse who is a
81 participant in the group insurance plan in effect prior to October 1,
82 1994, may elect to participate in the plan set forth in subsection (a) at
83 the premiums set forth in subsection (c), provided such election is
84 made within sixty days of October 1, 1994.]

85 Sec. 3. Subsection (a) of section 45a-273 of the general statutes is
86 repealed and the following is substituted in lieu thereof (*Effective*
87 *October 1, 2003*):

88 (a) The surviving spouse of any person who dies, or if there is no
89 surviving spouse, any of the next of kin of such decedent, or if there is
90 no next of kin or if such surviving spouse or next of kin refuses, [then]
91 any suitable person whom the court deems to have a sufficient interest
92 may, in lieu of filing an application for admission of a will to probate
93 or letters of administration, file an affidavit or statement signed under
94 penalty of false statement in the court of probate in the district wherein
95 the decedent resided, stating, if such is the case, that all debts of the
96 decedent have been paid in the manner prescribed by section 45a-392,
97 at least to the extent of the fair value of all of the decedent's assets,
98 when (1) such decedent leaves property of the type described in
99 subsection (b) of this section, and (2) the aggregate value of any such
100 property as described in subsection (b) of this section does not exceed
101 the sum of twenty thousand dollars. In addition, such affidavit or
102 statement shall state that the decedent either did, or did not, receive
103 aid or care from the state, which shall also include aid or care from the
104 Department of Veterans' Affairs, whichever is true. Any such affidavit
105 or statement shall be filed not later than one hundred eighty days after
106 the date of the decedent's death.

107 Sec. 4. Subsection (a) of section 45a-283 of the general statutes is
108 repealed and the following is substituted in lieu thereof (*Effective*
109 *October 1, 2003*):

110 (a) Every person having knowledge of his designation in a will as an
111 executor of a testator's estate shall, [within thirty] not later than one

112 hundred eighty days [next] after the death of the testator, apply for
113 probate of the will to the court of probate of the district where the
114 testator was domiciled at his death.

115 Sec. 5. Subsection (a) of section 45a-303 of the general statutes is
116 repealed and the following is substituted in lieu thereof (*Effective*
117 *October 1, 2003*):

118 (a) (1) When any person domiciled in this state dies intestate, the
119 court of probate [in] of the district in which the deceased person was
120 domiciled at his death shall have jurisdiction to grant letters of
121 administration.

122 (2) When any person not domiciled in this state dies intestate,
123 administration may be granted by the Court of Probate determined
124 under the jurisdictional prerequisites provided in subsection (a) of
125 section 45a-287 for nondomiciliary testators, and the provisions of
126 subsection (d) of section 45a-287 regarding Probate Court costs
127 applicable to testate estates shall apply also to intestate estates granted
128 administration under this section.

129 (3) An application for letters of administration under this section
130 shall be filed with the court of probate having jurisdiction of the estate
131 of an intestate decedent, by any person to whom letters of
132 administration may be granted pursuant to subsection (c) of this
133 section or by any other person who is interested in the intestate
134 decedent's estate, not later than one hundred eighty days after the date
135 of the intestate decedent's death.

136 Sec. 6. Section 45a-341 of the general statutes is repealed and the
137 following is substituted in lieu thereof (*Effective October 1, 2003*):

138 (a) (1) An inventory of all the property of every deceased person
139 and insolvent debtor, except real property situated outside the state,
140 duly appraised, shall be made and signed under penalty of false
141 statement by the fiduciary.

142 (2) When any personal property of a deceased person or insolvent
143 debtor is outside of this state, the court may receive an inventory of
144 such property, accompanied by such evidence of its value as it deems
145 sufficient and signed under penalty of false statement by the fiduciary.

146 (3) The inventory and appraisal of the estate of any deceased
147 nonresident shall include only such interest as the decedent had at the
148 time of his or her death in the real property and tangible personal
149 property situated in this state and intangible personal property,
150 provided intangible personal property shall not be included if the
151 proceeding in this state with regard to such estate is ancillary to a
152 proceeding in another jurisdiction.

153 (4) The inventory and appraisal of the estate of any deceased person
154 shall include any property transferred by the decedent to any other
155 person by gift within three years prior to the date of the decedent's
156 death.

157 ~~[(4)]~~ (5) The fiduciary shall appraise or cause to be appraised such
158 inventoried property at its fair market value.

159 (b) (1) The fiduciary shall file the inventory in the court of probate
160 having jurisdiction of the estate of the deceased person or insolvent
161 debtor within two months after the acceptance of the bond or other
162 qualification of the fiduciary.

163 (2) The court may, for cause shown, extend the time for the filing of
164 such inventory to not more than four months from the qualification of
165 the fiduciary.

166 (3) The fiduciary shall file with the court such accounting for all
167 property contained in the inventory as the court may require pursuant
168 to part VI of chapter 801b.

169 (4) If, as of the date of the deceased person's death, the decedent
170 owned no property, either solely or jointly, or the decedent's property
171 consisted solely of a beneficial interest in property that is held in trust,

172 the fiduciary shall file with the court an affidavit, signed under penalty
173 of false statement by the fiduciary, attesting to such fact and, in the
174 case of such beneficial interest in property that is held in trust,
175 indicating the current location of such trust property.

176 (c) If the court grants administration of a decedent's estate to a
177 person other than (1) the person designated in the will as executor or
178 successor to such executor, (2) the surviving spouse, (3) any child of
179 the decedent or any guardian of such child as the court shall
180 determine, (4) any grandchild of the decedent or any guardian of such
181 grandchild as the court shall determine, (5) the decedent's parents, (6)
182 any brother or sister of the decedent, or (7) the next of kin entitled to
183 share in the estate, the fiduciary appointed by the court shall file an
184 inventory as required by this section prior to the sale, either under a
185 power in the will or under the laws of this state, of any property other
186 than real estate; except that if the fiduciary appointed is a state bank
187 and trust company or national banking association authorized to do
188 business in this state, such fiduciary shall not be required to file such
189 an inventory of intangible personal property prior to sale. The
190 fiduciary shall send a copy of such inventory to each person interested
191 in the estate and shall notify each such person, by regular mail, that a
192 sale of certain items in the inventory is contemplated. Such notice shall
193 inform the recipient that he or she may object to such sale by filing a
194 notice of objection in writing with the court of probate having
195 jurisdiction of the estate of the decedent within five days after receipt
196 of such notice of sale. Upon receipt of such notice of objection, the
197 court shall set a time and place for a hearing, with notice to all persons
198 interested in the estate.

199 (d) Notwithstanding the provisions of subsection (c) of this section,
200 upon application by the fiduciary, the court may order a sale of
201 personal property without a hearing prior to the filing of an inventory
202 and notice of sale, provided the court finds that an expeditious sale is
203 necessary for the protection of the estate and a delay would cause
204 irreparable harm to the estate.

205 (e) The fiduciary shall file an inventory containing a legal
206 description of any real estate of the decedent prior to a sale pursuant to
207 sections 45a-162 to 45a-169, inclusive, and sections 45a-427 and
208 45a-428.

209 (f) The fiduciary shall file an inventory containing all property
210 jointly owned by the decedent and any other person as of the date of
211 the decedent's death. Such inventory shall indicate the relationship, if
212 any, between the decedent and such other person and shall be
213 confidential. Such inventory shall be accompanied by an affidavit,
214 signed under penalty of false statement by the fiduciary, stating that
215 all property contained in such inventory is in the control of the
216 surviving joint owner. Such affidavit shall be a matter of public record.

217 Sec. 7. (NEW) (*Effective October 1, 2003*) (a) The Probate Court
218 Administrator may, in accordance with section 45a-84 of the general
219 statutes, expend from the Probate Court Administration Fund such
220 amounts as the Probate Court Administrator may deem reasonable
221 and necessary for the establishment or improvement of court facilities
222 in order to facilitate the merger of any probate districts.

223 (b) Nothing in this section shall be construed to relieve any town of
224 its obligation to provide and maintain court facilities pursuant to
225 section 45a-8 of the general statutes.

226 Sec. 8. (NEW) (*Effective October 1, 2003*) If an application for
227 admission of a will to probate pursuant to section 45a-283 of the
228 general statutes, as amended by this act, an application for letters of
229 administration pursuant to section 45a-303 of the general statutes, as
230 amended by this act, or an affidavit or statement in lieu of such
231 application pursuant to section 45a-273 of the general statutes, as
232 amended by this act, is not filed within one hundred twenty days of
233 the date of death of any person who was a resident of this state, upon
234 the expiration of such time period, the court of probate of the district in
235 which the deceased person was domiciled at his or her death shall, on
236 its own motion, appoint a suitable person whom the court deems to

237 have a sufficient interest to file an application with the court for the
238 settlement of the estate of the deceased person as a testate or intestate
239 estate. Upon receipt of such application, the court shall appoint a
240 person whom the court deems proper to be executor or administrator,
241 as the case may be, and shall proceed with the settlement of the estate
242 in accordance with the applicable provisions of chapter 802b of the
243 general statutes.

244 Sec. 9. (NEW) (*Effective from passage*) Not later than sixty days after
245 the effective date of this section, the Probate Court Administrator shall
246 establish and promulgate a schedule of basic costs payable to courts of
247 probate for all proceedings in the settlement of the estate of any
248 deceased person. Such schedule shall include, but not be limited to, a
249 fee for the processing of each decedent's estate. The Probate Court
250 Administrator shall submit such schedule, and any subsequent
251 revisions to such schedule, to the joint standing committee of the
252 General Assembly having cognizance of matters relating to the
253 judiciary, for the committee's approval.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>from passage</i>

Statement of Purpose:

To phase out expanded retirement benefits for judges of courts of probate that are merged, to require payment of health insurance premiums for Probate Court retirees from the Probate Court Administration Fund and conform certain retirement provisions to those of active judges and employees, to enable the Probate Court Administrator to make expenditures from the Probate Court

Administration Fund in order to provide adequate court facilities to implement court mergers, to provide for the orderly and efficient processing of decedents' estates and to permit the Probate Court to generate adequate revenue.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]