



General Assembly

January Session, 2003

**Amendment**

LCO No. 6384

\*HB0550406384HD0\*

Offered by:

REP. STONE, 9<sup>th</sup> Dist.

To: Subst. House Bill No. 5504

File No. 615

Cal. No. 419

**"AN ACT ESTABLISHING THE NORTHWEST CORNER PROBATE DISTRICT AND A BLUE RIBBON COMMISSION ON THE PROBATE COURT SYSTEM."**

1 Strike out lines 188 to 231, inclusive, in their entirety and insert the  
2 following in lieu thereof:

3 "Sec. 3. Section 45a-25 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2003*):

5 (a) A judge of probate shall not appear as attorney in any contested  
6 matter in any court of probate.

7 (b) For the purposes of subsection (a) of this section, a matter is  
8 contested when any party informs the court, orally or in writing, of  
9 any objection or opposition in such matter, without regard to the  
10 apparent merit or lack of merit of such objection or opposition.

11 Sec. 4. Section 45a-56 of the general statutes is repealed and the  
12 following is substituted in lieu thereof (*Effective October 1, 2003*):

13 (a) Notwithstanding the provisions of section 5-259, as amended by  
14 this act, the Comptroller, with the approval of the Attorney General  
15 and the Insurance Commissioner, shall arrange and procure a group  
16 hospitalization and medical and surgical insurance and dental  
17 insurance plan for the probate judges and employees retirement  
18 system with coverage equal to that available under section 5-259, as  
19 amended by this act, or otherwise available, to retired state employees  
20 and their spouses and surviving spouses.

21 (b) Any member of the probate judges and employees retirement  
22 system who is retired and receiving benefits from such system, and the  
23 spouse of any such member, and upon the death of any such member,  
24 such member's surviving spouse, while receiving benefits from such  
25 system, may elect to participate in the group insurance plan procured  
26 by the Comptroller under subsection (a) of this section.

27 (c) [The premium charged for any such member and spouse or  
28 surviving spouse who elects to participate in the group hospitalization  
29 and medical and surgical portion of such coverage shall be paid from  
30 the retirement fund established pursuant to section 45a-35. Twenty per  
31 cent of the premium charged for any such member and spouse or  
32 surviving spouse who elects to participate in the group dental portion  
33 of such coverage shall be paid from said retirement fund, and the  
34 remainder of the premium for such coverage shall be paid by the  
35 participant.] Not more than one hundred per cent of the portion of the  
36 premium charged for coverage for any such member and spouse or  
37 surviving spouse who elects to participate in the group insurance plan  
38 procured by the Comptroller under subsection (a) of this section shall  
39 be paid from the Probate Court Administration Fund established by  
40 section 45a-82, as amended by this act. The remainder of the premium  
41 for such coverage shall be paid by such member and spouse or  
42 surviving spouse to the State Treasurer. Payment shall be credited by  
43 the State Treasurer to the fund established by section 45a-82, as  
44 amended by this act. The total premiums payable shall be remitted by  
45 the Probate Court Administrator directly to the insurance company or  
46 companies or nonprofit organization or organizations providing the

47 coverage. The Probate Court Administrator shall issue regulations  
48 governing group hospitalization and medical and surgical insurance  
49 and dental insurance in accordance with section 45a-77, as amended by  
50 this act.

51 [(d) Any such member and spouse or surviving spouse who is a  
52 participant in the group insurance plan in effect prior to October 1,  
53 1994, may elect to participate in the plan set forth in subsection (a) at  
54 the premiums set forth in subsection (c), provided such election is  
55 made within sixty days of October 1, 1994.]

56 Sec. 5. Section 45a-77 of the general statutes is repealed and the  
57 following is substituted in lieu thereof (*Effective October 1, 2003*):

58 (a) The Probate Court Administrator may attend to any matters  
59 which the Probate Court Administrator deems necessary for the  
60 efficient operation of courts of probate and for the expeditious  
61 dispatch and proper conduct of the business of [those] such courts. The  
62 Probate Court Administrator may make recommendations to the  
63 General Assembly for legislation for the improvement of the  
64 administration of the courts of probate.

65 (b) (1) The Probate Court Administrator may issue regulations [,  
66 provided such regulations are approved in accordance with this  
67 subsection. Such regulations] that shall be binding on all courts of  
68 probate and shall concern the auditing, accounting, statistical, billing,  
69 recording, filing, administrative procedures and other court  
70 procedures. [. (2) The Probate Court Administrator may adopt  
71 regulations, in accordance with chapter 54, provided such regulations  
72 are approved in accordance with this subsection. Such regulations  
73 shall be binding on all courts of probate and shall concern] the  
74 availability of judges, court facilities, court personnel and salaries,  
75 records [,] and hours of court operation. [and telephone service. (3)]

76 (2) Either the Probate Court Administrator or the executive  
77 committee of the Connecticut Probate Assembly may propose such  
78 regulations. Any regulation proposed by the Probate Court

79 Administrator shall be submitted to the executive committee of the  
80 Connecticut Probate Assembly for approval. Any regulation proposed  
81 by the executive committee of the Connecticut Probate Assembly shall  
82 be submitted to the Probate Court Administrator for approval. If either  
83 the Probate Court Administrator or the executive committee of the  
84 Connecticut Probate Assembly fails to approve a proposed regulation,  
85 such proposed regulation may be submitted to a panel of three  
86 Superior Court judges appointed by the Chief Justice of the Supreme  
87 Court. The panel of judges, after consideration of the positions of the  
88 Probate Court Administrator and the executive committee of the  
89 Probate Assembly, shall either approve the proposed regulation or  
90 reject the proposed regulation.

91 (c) The Probate Court Administrator shall regularly review the  
92 auditing, accounting, statistical, billing, recording, filing,  
93 administrative procedures and other procedures of the several courts  
94 of probate.

95 (d) The Probate Court Administrator shall, personally, or by an  
96 authorized designee of the Probate Court Administrator who has been  
97 admitted to the practice of law in this state for at least five years, or by  
98 another person acting under the direct supervision of such designee,  
99 visit each court of probate at least once during each two-year period to  
100 examine the records and files of such court in the presence of the judge  
101 of the court or the judge's authorized designee. The Probate Court  
102 Administrator shall make [whatever] any additional inquiries [are  
103 deemed] that the Probate Court Administrator deems appropriate [,] to  
104 ascertain whether the business of the court, including the charging of  
105 costs and payments to the State Treasurer, has been conducted in  
106 accordance with law, rules of the courts of probate and the canons of  
107 judicial ethics, and to obtain information concerning the business of  
108 the courts of probate which is necessary for the [administrator] Probate  
109 Court Administrator to perform properly the duties of the office.

110 (e) If the Probate Court Administrator determines, in accordance  
111 with subsection (c) or (d) of this section, that the business of a court of

112 probate has not been conducted in accordance with law, rules of the  
113 courts of probate or the canons of judicial ethics, the Probate Court  
114 Administrator, in the Probate Court Administrator's discretion and  
115 after consultation with the judge of such court and providing such  
116 judge with a reasonable opportunity to conform the business of such  
117 court to the requirements of such law, rules or canons, may: (1)  
118 Reassign any case to another judge of probate by citation pursuant to  
119 section 45a-120; or (2) cite another judge of probate to assist the judge  
120 of such court in conducting the business of such court.

121 (f) Any judge of probate who is the subject of an action of the  
122 Probate Court Administrator pursuant to subsection (e) of this section  
123 may request a hearing to review such action. A request for such  
124 hearing shall be in writing and shall be given to the Probate Court  
125 Administrator not later than five business days following the date of  
126 such action. Any such hearing shall be held before a panel of three  
127 judges of probate not later than ten days from the date such request is  
128 received by the Probate Court Administrator. Such panel shall consist  
129 of (1) the president-judge of the Connecticut Probate Assembly or, in  
130 the event of the absence or disability of the president-judge, the first  
131 vice-president-judge of the Connecticut Probate Assembly, who shall  
132 preside at such hearing, and (2) two members of the executive  
133 committee of the Connecticut Probate Assembly designated by the  
134 president-judge or vice-president-judge. After hearing, a majority of  
135 such panel may affirm, reverse or modify the action of the Probate  
136 Court Administrator taken pursuant to subsection (e) of this section.  
137 Any proceedings conducted pursuant to subsection (e) of this section  
138 and this subsection shall be confidential unless the judge of probate  
139 who is the subject of the proceedings requests that such proceedings be  
140 public.

141 Sec. 6. Subsection (l) of section 45a-82 of the general statutes is  
142 repealed and the following is substituted in lieu thereof (*Effective*  
143 *October 1, 2003*):

144 (l) The Probate Court Administrator may issue regulations pursuant

145 to [subdivision (1) of subsection (b) of] section 45a-77, as amended by  
146 this act, in order to carry out the intent of subsections (j) and (k) of this  
147 section.

148 Sec. 7. Section 45a-92 of the general statutes is repealed and the  
149 following is substituted in lieu thereof (*Effective October 1, 2003*):

150 (a) Each person who is a judge of probate at any time during any  
151 calendar year shall file with the Probate Court Administrator, on or  
152 before March first of the succeeding year, a statement signed under  
153 penalty of false statement showing the actual gross receipts and  
154 itemized costs of his or her office and the net income for each such  
155 calendar year. If such person ceases to hold office, he or she shall also  
156 file with the Probate Court Administrator, on or before March first of  
157 the second and third years next following, a statement signed under  
158 penalty of false statement showing his or her net income from his or  
159 her former office for the first and second calendar years next following  
160 the calendar year in which he or she ceased to hold office. At the time  
161 of filing, each such person shall pay to the State Treasurer, as  
162 [hereinafter] provided in this section, the sum required by this section,  
163 less sums previously paid to the State Treasurer on account. Payment  
164 shall be credited by the State Treasurer to the fund established by  
165 section 45a-82, as amended by this act.

166 (b) The personal representative of each person who holds the office  
167 of judge of probate, at any time during any calendar year, and dies  
168 while in office, or within twenty-four months after ceasing to hold  
169 office, shall file with the Probate Court Administrator, on or before  
170 March first next following such death, a statement signed under  
171 penalty of false statement showing the actual gross receipts and  
172 itemized costs of the decedent's office for the preceding calendar year  
173 and the decedent's net income from [that] such office for such calendar  
174 year. The personal representative shall file with the Probate Court  
175 Administrator, on or before March first of the second year following  
176 [said] such death, a statement signed under penalty of false statement  
177 showing the net income to the decedent's estate from such office for

178 the preceding calendar year.

179 (c) Each judge of probate or personal representative, except a judge  
180 of probate who is the Probate Court Administrator, shall at the time of  
181 filing such returns pay to the State Treasurer to be credited to the fund  
182 established by section 45a-82, as amended by this act, a percentage of  
183 the annual net income from such office based on the following table in  
184 which the percentage appearing in the left column shall first be  
185 multiplied by the minimum annual compensation of a high volume  
186 court as provided in subsection (k) of this section, as in effect on the  
187 first day of July of the calendar year for which an assessment is due  
188 pursuant to this section, the product of which shall then be multiplied  
189 by the applicable percentage appearing in the right column:

T1	First 20% of the compensation assessment rate	
T2	of a high volume court	\$1 nominal
T3	Next 6.67%	5%
T4	Next 6.66%	10%
T5	Next 6.67%	15%
T6	Next 6.67%	25%
T7	Next 6.66%	35%
T8	Next 13.34%	50%
T9	Next 33.33%	75%
T10	Next 33.67%	80%
T11	Next 66.67%	85%
T12	Next 133.33%	95%
T13	Excess over 333.67%, up to the maximum amount computed at 97.5%	
T14	by the Probate Court Administrator	
T15	All over the maximum amount computed at 100% by the Probate	
T16	Court Administrator.	

190 As used [herein] in this subsection, "maximum amount" [shall mean]  
191 means the amount of annual net income from such office which, when

192 applying the percentage payments set forth above, shall result in the  
193 judge of probate retaining as net compensation, after the payment of  
194 the above amounts, no more than the product resulting from the  
195 multiplication of seventy-two dollars by the annual weighted-  
196 workload of the court, as defined by regulations to be [adopted] issued  
197 by the Probate Court Administrator pursuant to [subdivision (3) of  
198 subsection (b) of] section 45a-77, as amended by this act, but not to  
199 exceed the compensation of a high volume court as set forth in  
200 subsection (k) of this section, provided [this] such limitation shall not  
201 apply to [those] the courts described in subsection (k) of this section.  
202 Such payment shall be deemed to be a necessary expense of such office  
203 but shall not be deductible from the gross income for the purpose of  
204 determining net income of such office under this section.  
205 Notwithstanding the provisions of this subsection, the annual  
206 minimum compensation of a judge of probate shall be no less than the  
207 product resulting from the multiplication of fifteen dollars by the  
208 annual weighted-workload of the court, as defined by regulations to be  
209 [adopted] issued by the Probate Court Administrator pursuant to  
210 [subdivision (3) of subsection (b) of] section 45a-77, as amended by this  
211 act, or no less than the judge's average compensation for the three-year  
212 period from January 1, 1996, to December 31, 1998, but, in no event  
213 shall [that] such minimum compensation exceed that provided  
214 pursuant to subsection (k) of this section.

215 (d) (1) Any judge of probate who is the Probate Court Administrator  
216 shall pay to the State Treasurer, to be credited to [said] the fund  
217 established by section 45a-82, as amended by this act, one hundred per  
218 cent of the annual net income from his office during the period of time  
219 he serves as Probate Court Administrator. (2) For the purposes of [this]  
220 such assessment, fees received after but earned before his appointment  
221 as Probate Court Administrator shall be subject to the assessment set  
222 forth in the table in subsection (c) of this section. Fees received after  
223 such judge of probate ceases to be the Probate Court Administrator but  
224 earned during his term as Probate Court Administrator shall be paid in  
225 full to the State Treasurer after the deduction of the expenses of his

226 office. (3) The books and records of any judge of probate acting as the  
227 Probate Court Administrator shall be audited by the Auditors of  
228 Public Accounts at the beginning of his term as Probate Court  
229 Administrator and thereafter at least annually during [his term as  
230 Probate Court Administrator] such term and upon completion of his  
231 term as Probate Court Administrator or as judge of probate whichever  
232 occurs first. (4) A judge of probate who is the Probate Court  
233 Administrator shall make no expenditure in his court for salaries,  
234 equipment [,] or any other expenditure exceeding the sum of one  
235 hundred dollars in the aggregate, annually, without first having  
236 obtained the approval of the Chief Court Administrator.

237 (e) (1) On or before January thirty-first of each year, each person  
238 required to make payment under this section shall estimate such  
239 annual net income and shall advise the Probate Court Administrator  
240 thereof, upon such forms and pursuant to such regulations as [said]  
241 the administrator shall [promulgate] issue. (2) Each person who takes  
242 office as a judge of probate after February first of any calendar year, as  
243 the result of death, retirement, resignation or removal of the  
244 immediately previous incumbent of [that] such office, shall file his  
245 estimate of annual net income with the Probate Court Administrator  
246 and shall make the necessary payment to the State Treasurer in  
247 accordance therewith not later than sixty days after taking office.

248 (f) If, based upon such estimate, the amount payable shall be less  
249 than one hundred dollars, the payment thereof shall be made in one  
250 payment on or before December thirty-first of the applicable year.  
251 Otherwise, the amount payable shall be made in four substantially  
252 equal installments payable on or before the last day of March, June,  
253 September and December of the applicable year, except that in the case  
254 of an estimate filed pursuant to subdivision (2) of subsection (e) of this  
255 section, the amount payable under such estimate shall be made in  
256 substantially equal installments on such installment payment dates  
257 next following the timely filing of such estimate in such year. The  
258 estimated payment may be amended and changed at any time during  
259 the year in which it is payable by increasing or decreasing the amount.

260 The amount of such increase or decrease shall be paid for or adjusted  
261 in the installment or payment due at the time the estimated assessment  
262 is next payable after such amendment. The Probate Court  
263 Administrator may [adopt] issue regulations pursuant to [subdivision  
264 (1) of subsection (b) of] section 45a-77, as amended by this act, to carry  
265 out the intent of this subsection.

266 (g) Upon the completion of each calendar year, and in any event on  
267 or before the first day of April of the succeeding calendar year, each  
268 person required to make payment under this section shall make a  
269 report signed under penalty of false statement to the Probate Court  
270 Administrator, upon forms prescribed by and subject to regulations  
271 [promulgated] issued by the administrator, of the following: (1) The  
272 gross income received by virtue of such person's office; (2) actual  
273 expenses incurred in connection with [the] such office; (3) the net  
274 income of such office prior to the payment of the assessment  
275 installments [hereinbefore] as provided in this section; (4) the amount  
276 paid during the preceding calendar year to the State Treasurer on  
277 account of the foregoing estimate; and (5) the amount of the difference,  
278 if any, between the amount so paid and the amount actually due.  
279 [This] Such report shall be open to public inspection.

280 (h) If the amount already paid was less than the amount due, such  
281 person shall, on or before March first of the succeeding calendar year,  
282 pay to the State Treasurer the entire deficiency. If the amount already  
283 paid was more than the amount due, such person shall either, at his  
284 election and pursuant to regulations [promulgated] adopted by the  
285 State Treasurer, be entitled to a refund of such excess payment to be  
286 paid from the fund [provided] established by section 45a-82, as  
287 amended by this act, or a credit in the amount of the overpayment to  
288 be charged against the future obligations of such person to said fund.

289 (i) (1) If any estimated quarterly payments required to be paid  
290 pursuant to subsection (f) of this section is less than one-fourth of  
291 seventy per cent of the total assessment due for that year or less than  
292 one-fourth of ninety-five per cent of the assessment paid for the prior

293 year, such person shall be obligated to pay to [such] the fund  
294 established by section 45a-82, as amended by this act, a penalty of ten  
295 per cent of the amount of the deficiency, except that the Probate Court  
296 Administrator may waive such penalty for cause in accordance with  
297 regulations [adopted] issued pursuant to [subdivision (1) of subsection  
298 (b) of] section 45a-77, as amended by this act. Any such penalty shall  
299 become payable upon demand by the Probate Court Administrator,  
300 and be due within thirty days after such demand, in accordance with  
301 regulations [promulgated] issued by the Probate Court Administrator,  
302 and shall be subject to interest under subdivision (2) of this subsection  
303 in the event of default in such payment. (2) Any payments required  
304 under subsection (f) or (h) of this section which are not paid at the  
305 applicable times prescribed in said subsections, and any penalty  
306 payment required under subdivision (1) of this subsection which is not  
307 timely paid, shall incur simple interest at the rate applicable under  
308 section 12-376 for delinquent payment of succession and transfer taxes  
309 where no extension has been granted, to be payable to the State  
310 Treasurer and to be added to the fund established [under] by section  
311 45a-82, as amended by this act. Any alleged delinquency of a judge of  
312 probate in making payments as required under this section shall be  
313 referred by the State Treasurer to the Attorney General for such action  
314 as the Attorney General deems necessary.

315 (j) (1) [As used in] For the purposes of this subsection and  
316 subsections (c) to (i), inclusive, of this section, [for any calendar year,  
317 the term] "actual expenses incurred in connection therewith", for any  
318 calendar year, may include as an allowable deduction the amount of  
319 any net operating loss for a prior calendar year as provided in this  
320 section. (2) [The term] For the purposes of this subsection, "net  
321 operating loss" means the excess of itemized costs and expenses of  
322 office allowed by this section over the gross income. A net operating  
323 loss may be deducted in the calendar year following the year in which  
324 the net operating loss occurred, but (A) if the net income of such  
325 subsequent year is not sufficient to pay all of such net operating loss,  
326 then the balance of such net operating loss may be deducted in the

327 second calendar year following such net operating loss, [j] and (B) if  
328 the net income of such second calendar year is not sufficient to pay all  
329 of the remaining net operating loss, then the balance of such net  
330 operating loss may be deducted in the third calendar year following  
331 such net operating loss. In no event shall any such net operating loss or  
332 part thereof be deductible for any report beyond the third calendar  
333 year in which it occurred.

334 (k) Notwithstanding the provisions of subsection (c) of this section  
335 concerning percentage payments, a judge of probate who is the judge  
336 in a court of probate designated as a high volume court shall be  
337 permitted to retain as net compensation, before the payment of any  
338 amounts due under sections 45a-34 to 45a-54, inclusive, and 45a-75, the  
339 sum which shall be the greater of (1) the net compensation resulting  
340 from the application of the percentages in subsection (c) of this section,  
341 or (2) compensation earned after payment of actual expenses of the  
342 office not to exceed seventy-five per cent of the amount of the salary of  
343 a Superior Court judge, as determined in accordance with subsection  
344 (a) of section 51-47, as determined on July first of the calendar year for  
345 which the assessments are being paid pursuant to this section. If a  
346 judge of probate of a high volume court leaves office during a calendar  
347 year, or if a judge of probate of a high volume court assumes office and  
348 serves during a portion of the calendar year, the minimum net  
349 compensation provided in this section shall be prorated in accordance  
350 with the number of days served during the calendar year as the  
351 numerator, and three hundred and sixty-five as the denominator,  
352 provided if the business of the court in a calendar year does not  
353 produce sufficient income with which to pay the minimum net  
354 compensation, then payment for [that] such year shall not be extended  
355 to subsequent calendar years. For the purposes of this subsection,  
356 "high volume court" [shall mean] means a court of probate which  
357 serves a district having an estimated population of seventy thousand  
358 or more persons as reported in the State Register and Manual for the  
359 calendar year immediately preceding (A) the year for which the judge  
360 was elected, (B) the year in which such judge was elected, or (C) any

361 year of the term of office of such judge. The amount of assessment  
362 payable to the State Treasurer under this section shall be reduced by  
363 the amount necessary to provide to the judge the minimum  
364 compensation to which such judge is entitled under this section, and  
365 the estimates of annual net income required in subsections (e) and (f)  
366 of this section may be reduced accordingly. Minimum compensation  
367 as provided [herein] in this section shall only be payable if all ordinary  
368 and necessary expenses of the court are paid.

369 Sec. 8. Section 45a-650 of the general statutes is repealed and the  
370 following is substituted in lieu thereof (*Effective October 1, 2003*):

371 (a) At any hearing for involuntary representation, the court shall  
372 receive evidence regarding the condition of the respondent, including  
373 a written report or testimony by one or more physicians licensed to  
374 practice medicine in the state who have examined the respondent  
375 within thirty days preceding the hearing. The report or testimony shall  
376 contain specific information regarding the disability and the extent of  
377 its incapacitating effect. The court may also consider such other  
378 evidence as may be available and relevant, including, but not limited  
379 to, a summary of the physical and social functioning level or ability of  
380 the respondent, and the availability of support services from the  
381 family, neighbors, community [,] or any other appropriate source. Such  
382 evidence may include, if available, reports from the social work service  
383 of a general hospital, municipal social worker, director of social  
384 service, public health nurse, public health agency, psychologist,  
385 coordinating assessment and monitoring agencies, or such other  
386 persons as the court deems qualified to provide such evidence. The  
387 court may waive the requirement that medical evidence be presented if  
388 it is shown that the evidence is impossible to obtain because of the  
389 absence of the respondent or his or her refusal to be examined by a  
390 physician or that the alleged incapacity is not medical in nature. If  
391 [this] such requirement is waived, the court shall make a specific  
392 finding in any decree issued on the petition stating why medical  
393 evidence was not required. In any matter in which the Commissioner  
394 of Social Services seeks the appointment of a conservator pursuant to

395 chapter 319dd and represents to the court that an examination by an  
396 independent physician, psychologist or psychiatrist is necessary to  
397 determine whether the elderly person is capable of managing his or  
398 her personal or financial affairs, the court shall order such examination  
399 unless the court determines that such examination is not in the best  
400 interests of the elderly person. The court shall order such examination  
401 notwithstanding any medical report submitted to the court by the  
402 elderly person or the caretaker of such elderly person. Any medical  
403 report filed with the court pursuant to this subsection shall be  
404 confidential.

405 (b) Upon the filing of an application for involuntary representation  
406 pursuant to section 45a-648, the court may issue an order for the  
407 disclosure of the medical information required pursuant to subsection  
408 (a) of this section.

409 [(b)] (c) Notwithstanding the provisions of section 45a-7, the court  
410 may hold the hearing on the application at a place within the state  
411 other than its usual courtroom if it would facilitate attendance by the  
412 respondent.

413 [(c)] (d) If the court finds by clear and convincing evidence that the  
414 respondent is incapable of managing his or her affairs, the court shall  
415 appoint a conservator of his or her estate unless it appears to the court  
416 that such affairs are being managed properly without the appointment  
417 of a conservator. If the court finds by clear and convincing evidence  
418 that the respondent is incapable of caring for himself or herself, the  
419 court shall appoint a conservator of his or her person unless it appears  
420 to the court that the respondent is being cared for properly without the  
421 appointment of a conservator.

422 [(d)] (e) When determining whether a conservator should be  
423 appointed and in selecting a conservator to be appointed for the  
424 respondent, the court shall be guided by the best interests of the  
425 respondent. In making such determination, the court shall consider  
426 whether the respondent had previously made alternative

427 arrangements for the care of his person or for the management of his  
428 affairs, including, but not limited to, the execution of a valid durable  
429 power of attorney, the appointment of a health-care agent or other  
430 similar document. The respondent may, by oral or written request, if at  
431 the time of the request he or she has sufficient capacity to form an  
432 intelligent preference, nominate a conservator who shall be appointed  
433 unless the court finds the appointment of the nominee is not in the best  
434 interests of the respondent. In such case, or in the absence of any such  
435 nomination, the court may appoint any qualified person, authorized  
436 public official or corporation in accordance with subsections (a) and (b)  
437 of section 45a-644.

438 [(e)] (f) Upon the request of the respondent or his or her counsel,  
439 made within thirty days of the date of the decree, the court shall make  
440 and furnish findings of fact to support its conclusion.

441 [(f)] (g) If the court appoints a conservator of the estate of the  
442 respondent, it shall require a probate bond. The court may, if it deems  
443 it necessary for the protection of the respondent, require a bond of any  
444 conservator of the person appointed [hereunder] under this section.

445 [(g)] (h) The court may limit the powers and duties of either the  
446 conservator of the person or the conservator of the estate, to include  
447 some, but not all, of the powers and duties set forth in subsections (a)  
448 and (b) of section 45a-644 [,] and sections 45a-655 and 45a-656, and  
449 shall make specific findings to justify such a limitation, in the best  
450 interests of the ward. In determining whether or not any such  
451 limitations should be imposed, the court shall consider the abilities of  
452 the ward, the prior appointment of any attorney-in-fact, health care  
453 agent, trustee or other fiduciary acting on behalf of the ward, any  
454 support services which are otherwise available to the ward, and any  
455 other relevant evidence. The court may modify its decree upon any  
456 change in circumstances.

457 Sec. 9. Section 45a-654 of the general statutes is repealed and the  
458 following is substituted in lieu thereof (*Effective October 1, 2003*):

459 (a) Upon written application for appointment of a temporary  
460 conservator brought by any person deemed by the court to have  
461 sufficient interest in the welfare of the respondent, including, but not  
462 limited to, the spouse or any relative of the respondent, the first  
463 selectman, chief executive officer or head of the department of welfare  
464 of the town of residence or domicile of any respondent, the  
465 Commissioner of Social Services, the board of directors of any  
466 charitable organization, as defined in section 21a-190a, or the chief  
467 administrative officer of any nonprofit hospital or such officer's  
468 designee, the Court of Probate may appoint a temporary conservator [,  
469 if it] if the court finds that: (1) The respondent is incapable of  
470 managing his affairs or incapable of caring for himself; and (2)  
471 irreparable injury to the mental or physical health or financial or legal  
472 affairs of the respondent will result if a temporary conservator is not  
473 appointed pursuant to this section. The court may, in its discretion,  
474 require the temporary conservator to give a probate bond. The  
475 temporary conservator shall have charge of the property or of the  
476 person of the respondent, or both, for such period of time or for such  
477 specific occasion as the court finds to be necessary, provided a  
478 temporary appointment shall not be valid for more than thirty days,  
479 unless at any time while the appointment of a temporary conservator  
480 is in effect, an application is filed for appointment of a conservator of  
481 the person or estate under section 45a-650, as amended by this act. The  
482 court may extend the appointment of the temporary conservator until  
483 the disposition of such application, or for an additional thirty days,  
484 whichever occurs first.

485 (b) Except as provided in subsection (e) of this section, an  
486 appointment of a temporary conservator shall not be made unless a  
487 report is presented to the judge, signed by a physician licensed to  
488 practice medicine or surgery in this state, stating: (1) That the  
489 physician has examined [such person] the respondent and the date of  
490 such examination, which shall not be more than three days prior to the  
491 date of presentation to the judge; (2) that it is the opinion of the  
492 physician that the respondent is incapable of managing his affairs or of

493 caring for himself; and (3) the reasons for such opinion. Any  
494 physician's report filed with the court pursuant to this subsection shall  
495 be confidential. The court may issue an order for the disclosure of the  
496 medical information required pursuant to this subsection.

497 (c) The court may, ex parte and without prior notice to the  
498 respondent, appoint a temporary conservator upon making the  
499 findings required by subsection (a) of this section. After making such  
500 appointment, the court shall immediately: (1) Appoint an attorney to  
501 represent the respondent, provided if the respondent is unable to pay  
502 for the services of such attorney, the reasonable compensation for such  
503 attorney shall be established by, and paid from funds appropriated to,  
504 the Judicial Department, [however] provided, if funds have not been  
505 included in the budget of the Judicial Department for such purposes,  
506 such compensation shall be established by the Probate Court  
507 Administrator and paid from the Probate Court Administration Fund;  
508 and (2) give notice by mail, or such other notice as the court deems  
509 appropriate, to the respondent, the respondent's next of kin and such  
510 attorney, which notice shall include: (A) A copy of the application for  
511 appointment of a temporary conservator and the accompanying  
512 physician's report; and (B) a copy of the decree appointing a temporary  
513 conservator. If the court determines that notice to the respondent  
514 under this subsection would be detrimental to the health or welfare of  
515 the respondent, the court may give such notice only to the  
516 respondent's next of kin and the respondent's attorney. Thereafter, the  
517 court shall, upon the written request of the respondent, the  
518 respondent's next of kin or the respondent's attorney, or may upon its  
519 own motion, hold a hearing. Such hearing shall be held within  
520 seventy-two hours of receipt of such request, excluding Saturdays,  
521 Sundays and holidays, and upon such notice as the court deems  
522 appropriate. After hearing, the court may confirm or revoke the  
523 appointment of the temporary conservator.

524 (d) If the court determines that an ex parte appointment of a  
525 temporary conservator pursuant to subsection (c) of this section is not  
526 appropriate but finds substantial evidence that appointment of a

527 temporary conservator may be necessary, the court shall hold a  
528 hearing on the application. Unless continued by the court for cause,  
529 such hearing shall be held within seventy-two hours of receipt of the  
530 application, excluding Saturdays, Sundays and holidays. Prior to such  
531 hearing, the court shall appoint an attorney to represent the  
532 respondent in accordance with subsection (c) of this section and shall  
533 give such notice as it deems appropriate to the respondent, the  
534 respondent's next of kin and such attorney, which notice shall include  
535 a copy of the application for appointment of a temporary conservator  
536 and the accompanying physician's report. After hearing and upon  
537 making the findings required by subsection (a) of this section, the court  
538 may appoint a temporary conservator.

539 (e) The court may waive the medical evidence requirement under  
540 subsection (b) of this section if the court finds that the evidence is  
541 impossible to obtain because of the refusal of the respondent to be  
542 examined by a physician. In any such case, the court may, in lieu of  
543 medical evidence, accept other competent evidence. In any case in  
544 which the court waives the requirement of medical evidence as  
545 provided in this subsection, the court shall (1) make a specific finding  
546 in any decree issued on the application stating why medical evidence  
547 was not required, and (2) if a hearing has not been held, schedule a  
548 hearing under subsection (c) of this section, which hearing shall take  
549 place within seventy-two hours of the issuance of the court's decree.

550 (f) On termination of the temporary conservatorship, the temporary  
551 conservator shall file a written report with the court of his actions as  
552 temporary conservator.

553 Sec. 10. Section 45a-660 of the general statutes is repealed and the  
554 following is substituted in lieu thereof (*Effective October 1, 2003*):

555 (a) (1) If the court of probate having jurisdiction finds a ward to be  
556 capable of caring for himself or herself, the court shall, upon hearing  
557 and after notice, order that the conservatorship of the person be  
558 terminated. If the court finds, upon hearing and after notice which the

559 court prescribes, that a ward is capable of managing his or her own  
560 affairs, the court shall order that the conservatorship of the estate be  
561 terminated and that the remaining portion of his or her property be  
562 restored to the ward. (2) If the court finds, upon hearing and after  
563 notice which the court prescribes, that a ward has no assets of any kind  
564 remaining except for that amount allowed by subsection (c) of section  
565 17b-80, the court may order that the conservatorship of the estate be  
566 terminated. The court shall thereupon order distribution of the  
567 remaining assets to the conservator of the person or, if there is no  
568 conservator or the conservator declines or is unable to accept or the  
569 conservator is the Commissioner of Social Services, to some suitable  
570 person, to be determined by the court, to hold for the benefit of the  
571 ward, upon such conservator or person giving such probate bond, if  
572 any, as the court orders. (3) If any ward having a conservator dies, his  
573 or her property, other than property which has accrued from the sale  
574 of his or her real property, shall be delivered to his or her executor or  
575 administrator. The unexpended proceeds of his or her real property  
576 sold as [aforesaid] specified in this subdivision shall go into the hands  
577 of the executor or administrator, to be distributed as such real property  
578 would have been.

579 (b) (1) In any case under subsection (a) of this section, the  
580 conservator shall file in the court his or her final account, and the court  
581 shall audit the account and allow the account if it is found to be  
582 correct. If the ward is living, the ward and his or her attorney, if any,  
583 shall be entitled to notice by regular mail of any hearing held on the  
584 final account. (2) The court of probate having jurisdiction shall send  
585 written notice annually to the ward and his or her attorney that the  
586 ward has a right to a hearing under this section. Upon receipt of  
587 request for such hearing the court shall set a time and date for the  
588 hearing, which date shall not be more than thirty days from the receipt  
589 of the application unless continued for cause shown.

590 (c) The court shall review each conservatorship at least every three  
591 years, and shall either continue, modify or terminate the order for  
592 conservatorship. The court shall receive and review written evidence

593 as to the condition of the ward. The conservator, the attorney for the  
594 ward and a physician licensed to practice medicine in this state, shall  
595 each submit a written report to the court within forty-five days of the  
596 court's request for such report. If the ward is unable to request or  
597 obtain an attorney, the court shall appoint an attorney. If the ward is  
598 unable to pay for the services of the attorney, the reasonable  
599 compensation of such attorney shall be established by, and paid from  
600 funds appropriated to, the Judicial Department. ~~[, however, if]~~ If funds  
601 have not been included in the budget of the Judicial Department for  
602 such purposes, such compensation shall be established by the Probate  
603 Court Administrator and paid from the Probate Court Administration  
604 Fund. The physician shall examine the ward within the forty-five-day  
605 period preceding the date of submission of his report. Any physician's  
606 report filed with the court pursuant to this subsection shall be  
607 confidential. The court may issue an order for the disclosure of medical  
608 information required pursuant to this subsection.

609 (d) If the court determines, after receipt of the reports from the  
610 attorney for the ward, the physician and the conservator, that there has  
611 been no change in the condition of the ward since the last preceding  
612 review by the court, a hearing on the condition of the ward shall not be  
613 required, but the court, in its discretion, may hold such hearing. If the  
614 attorney for the ward, the physician or conservator requests a hearing,  
615 the court shall hold a hearing within thirty days of such request.

616 Sec. 11. (NEW) (*Effective October 1, 2003*) (a) The Probate Court  
617 Administrator may, in accordance with section 45a-84 of the general  
618 statutes, expend from the Probate Court Administration Fund such  
619 amounts as the Probate Court Administrator may deem reasonable  
620 and necessary for the establishment or improvement of court facilities  
621 in order to facilitate the merger of any probate districts pursuant to  
622 subsection (d) of section 45a-8 of the general statutes or an act of the  
623 General Assembly.

624 (b) Nothing in this section shall be construed to relieve any town of  
625 its obligation to provide and maintain court facilities pursuant to

626 section 45a-8 of the general statutes.

627 Sec. 12. (NEW) (*Effective October 1, 2003*) In any proceeding before a  
628 court of probate, the court may issue an order for the disclosure of  
629 medical information relevant to the determination of the matter before  
630 the court. The order may require the disclosure of such medical  
631 information to: (1) The court; (2) any executor, administrator,  
632 conservator, guardian or trustee appointed by the court; (3) any  
633 attorney representing the individual who is the subject of such medical  
634 information; (4) any guardian ad litem for the individual who is the  
635 subject of such medical information; (5) any physician, psychiatrist or  
636 psychologist who has been ordered by the court to conduct an  
637 examination of such individual; or (6) any other party to the  
638 proceeding requiring such medical information as the court deems  
639 necessary in the interests of justice. Any such medical information filed  
640 with the court shall be confidential.

641 Sec. 13. Subsection (g) of section 5-259 of the general statutes is  
642 repealed and the following is substituted in lieu thereof (*Effective*  
643 *October 1, 2003*):

644 (g) Notwithstanding the provisions of subsection (a) of this section,  
645 the Probate Court Administration Fund established in accordance with  
646 section 45a-82, as amended by this act, shall pay for each probate judge  
647 and Probate Court employee not more than one hundred per cent of  
648 the portion of the premium charged for his individual coverage and  
649 not more than fifty per cent of any additional cost for his form of  
650 coverage. The remainder of the premium for such coverage shall be  
651 paid by the probate judge or Probate Court employee to the State  
652 Treasurer. Payment shall be credited by the State Treasurer to the fund  
653 established by section 45a-82, as amended by this act. The total  
654 premiums payable shall be remitted by the Probate Court  
655 Administrator directly to the insurance company or companies or  
656 nonprofit organization or organizations providing the coverage. The  
657 Probate Court Administrator shall [establish] issue regulations  
658 governing group hospitalization and medical and surgical insurance in

659 accordance with [subdivision (1) of subsection (b) of] section 45a-77, as  
660 amended by this act.

661 Sec. 14. Subsections (b) and (c) of section 17a-685 of the general  
662 statutes are repealed and the following is substituted in lieu thereof  
663 (*Effective October 1, 2003*):

664 (b) The application shall allege that the person is an  
665 alcohol-dependent person or a drug-dependent person who is  
666 dangerous to himself or herself or dangerous to others when he or she  
667 is an intoxicated person or who is gravely disabled. The application  
668 shall contain a statement that the applicant has arranged for treatment  
669 in a treatment facility. A statement to that effect from such facility shall  
670 be attached to the application. [The application shall also be  
671 accompanied by] Before the hearing on the application, there shall be  
672 filed with the court a certificate of a licensed physician who has  
673 examined the person within two days before submission of the  
674 application. The physician's certificate shall set forth the physician's  
675 findings, including clinical observation or information, or the person's  
676 medical history, in support of the allegations of the application, and a  
677 finding of whether the person presently needs and is likely to benefit  
678 from treatment, and shall include a recommendation as to the type and  
679 length of treatment and inpatient facilities available for such treatment.  
680 A physician employed by the private treatment facility to which the  
681 person is to be committed is not eligible to be the certifying physician.  
682 An application filed by a person other than the certifying physician  
683 shall set forth the facts and information upon which the applicant  
684 bases his or her allegations and the names and addresses of all  
685 physicians. Upon the filing of an application under this section, the  
686 court may issue an order for the disclosure of the medical information  
687 required pursuant to this subsection.

688 (c) Upon receipt of the application, the court shall assign a time for a  
689 hearing not later than seven business days after the date the  
690 application was filed. A copy of the application and physician's  
691 certificate and the notice of the hearing [,] shall be served [,] on the

692 respondent by a state marshal, constable or indifferent person not later  
693 than three business days before the hearing, [on the respondent,]  
694 unless the respondent is in a facility, in which case such notice shall be  
695 by regular mail. Such notice shall inform such respondent that he or  
696 she has a right to be present at the hearing, that he or she has the right  
697 to counsel and, if indigent, to have counsel appointed to represent him  
698 or her, and that such respondent has a right to cross-examine witnesses  
699 testifying at any hearing upon [that] such application. The court shall  
700 cause a recording of the testimony of such hearing to be made, to be  
701 transcribed only in the event of an appeal from the decree rendered  
702 pursuant to this section. A copy of such transcript shall be furnished  
703 without charge to any appellant whom the Court of Probate finds is  
704 unable to pay for [the same] such transcript. The cost of [said] such  
705 transcript shall be paid from funds appropriated to the Judicial  
706 Department. The court shall cause notice of [said] such hearing to be  
707 given by regular mail to the respondent's next of kin, a parent or legal  
708 guardian if the respondent is a minor, the administrator of the  
709 treatment facility if the respondent has been committed for emergency  
710 treatment pursuant to section 17a-684, and the administrator of the  
711 treatment facility to which the respondent is to be admitted. The court  
712 may order such notice as it directs to other persons having an interest  
713 in the respondent. If the court finds such respondent is indigent or  
714 otherwise unable to pay for counsel, the court shall appoint counsel for  
715 such respondent, unless such respondent refuses counsel and the court  
716 finds that the respondent understands the nature of such refusal. The  
717 court shall appoint counsel for the respondent from a panel of  
718 attorneys admitted to practice in this state provided by the Probate  
719 Court Administrator in accordance with regulations [promulgated]  
720 issued by the Probate Court Administrator in accordance with section  
721 45a-77, as amended by this act. The reasonable compensation of  
722 appointed counsel shall be established by, and paid from funds  
723 appropriated to, the Judicial Department. If funds have not been  
724 included in the budget of the Judicial Department for such purposes,  
725 such compensation shall be established by the Probate Court  
726 Administrator and paid from the Probate Court Administration Fund.

727 Prior to such hearing, such respondent [,] or the respondent's counsel,  
728 in accordance with the provisions of sections 52-146d to 52-146i,  
729 inclusive, shall be afforded access to all records, including, [without  
730 limitation] but not limited to, hospital records if such respondent is  
731 hospitalized, and shall be entitled to take notes therefrom. If such  
732 respondent is hospitalized at the time of the hearing, the hospital shall  
733 make available at such hearing for use by the respondent or the  
734 respondent's counsel all records in its possession relating to the  
735 condition of the respondent. Notwithstanding the provisions of  
736 sections 52-146d to 52-146i, inclusive, all such hospital records directly  
737 relating to the respondent shall be admissible at the request of any  
738 party or the [Probate] Court of Probate in any proceeding relating to  
739 the confinement to or release from a hospital or treatment facility.  
740 Nothing in this section shall prevent timely objections to the  
741 admissibility of evidence in accordance with the rules of civil  
742 procedure."