



# Senate

General Assembly

**File No. 447**

February Session, 2006

Senate Bill No. 431

*Senate, April 10, 2006*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING RETIREMENT OF PROBATE JUDGES AND EMPLOYEES, THE FEES OF THE PROBATE COURT SYSTEM AND PROBATE COURT JURISDICTION OF APPLICATIONS FOR VOLUNTARY OR INVOLUNTARY REPRESENTATION OF A PERSON ADMITTED TO A HOSPITAL.***

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 Section 45a-36a of the general statutes is repealed and the  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, 2006*):

3 (a) Any judge of probate in office on or after October 1, 1997, whose  
4 probate district is merged with another district on or before November  
5 1, 2010, and who has not been elected to a term which begins at the  
6 time of, or subsequent to, such consolidation, (1) may elect to receive  
7 [four] six years of credited service, as defined in subdivision (2) of  
8 section 45a-34, (2) may elect to receive a reduction of his or her  
9 retirement age of not more than [four] six years pursuant to subsection  
10 (a) of section 45a-36, or (3) may elect any combination of subdivisions  
11 (1) and (2) of this [section] subsection, provided such combination shall

12 not exceed [four] six years in total.

13 (b) Any employee of a court of probate serving on or after October  
14 1, 2006, which court is for a probate district that is merged with  
15 another district on or before November 1, 2010, (1) may elect to receive  
16 six years of credited service, as defined in subdivision (2) of section  
17 45a-34, (2) may elect to receive a reduction of his or her retirement age  
18 of not more than six years pursuant to subsection (a) of section 45a-36,  
19 or (3) may elect any combination of subdivisions (1) and (2) of this  
20 subsection, provided such combination shall not exceed six years in  
21 total.

22 Sec. 2. Subsection (b) of section 45a-107 of the 2006 supplement to  
23 the general statutes is repealed and the following is substituted in lieu  
24 thereof (*Effective July 1, 2006*):

25 (b) For estates in which proceedings were commenced on or after  
26 April 1, 1998, costs shall be computed as follows:

27 (1) The basis for costs shall be (A) the greatest of (i) the gross estate  
28 for succession tax purposes, as provided in section 12-349, (ii) the  
29 inventory, including all supplements thereto, [the Connecticut taxable  
30 estate, as defined in section 12-391,] or (iii) the gross estate for estate  
31 tax purposes, as provided in chapters 217 and 218, [whichever is  
32 greater,] less the proceeds of any life insurance includable in the gross  
33 estate, the fair market value of any real property or tangible personal  
34 property includable in the gross estate but located outside this state,  
35 and the amount of any indebtedness secured by a mortgage or lien on  
36 real property that is part of the gross estate, plus (B) all damages  
37 recovered for injuries resulting in death minus any hospital and  
38 medical expenses for treatment of such injuries resulting in death  
39 minus any hospital and medical expenses for treatment of such injuries  
40 that are not reimbursable by medical insurance and minus the  
41 attorney's fees and other costs and expenses of recovering such  
42 damages. Any portion of the basis for costs that is determined by  
43 property passing to the surviving spouse shall be reduced by fifty per  
44 cent. Except as provided in subdivision (3) of this subsection, in no

45 case shall the minimum cost be less than twenty-five dollars.

46 (2) Except as provided in [subdivisions (3) and (4)] subdivision (3)  
 47 of this subsection, costs shall be assessed in accordance with the  
 48 following table:

T1	Basis for Computation	
T2	Of Costs	Total Cost
T3	0 to \$500	\$25
T4	\$501 to \$1,000	\$50
T5	\$1,000 to \$10,000	\$50, plus 1% of all
T6		in excess of \$1,000
T7	\$10,000 to \$500,000	\$150, plus .35% of all
T8		in excess of \$10,000
T9	\$500,000 to \$4,754,000	\$1,865, plus .25% of all
T10		in excess of \$500,000
T11	\$4,754,000 and over	\$12,500

49 (3) Notwithstanding the provisions of subdivision (1) of this  
 50 subsection, if the basis for costs is less than ten thousand dollars and a  
 51 full estate is opened, the minimum cost shall be one hundred fifty  
 52 dollars.

53 [(4) In estates where the gross taxable estate is less than six hundred  
 54 thousand dollars, in which no succession tax return is required to be  
 55 filed, a probate fee of .1 per cent shall be charged against non-solely-  
 56 owned real estate, in addition to any other fees computed under this  
 57 section.]

58 Sec. 3. Section 45a-646 of the general statutes is repealed and the  
 59 following is substituted in lieu thereof (*Effective October 1, 2006*):

60 Any person may make application to the court of probate [in] for  
 61 the district in which [he] such person resides or [has his domicile] is

62 domiciled, or, if such person is admitted to a hospital at the time of  
63 making the application, to the court of probate for the district in which  
64 the hospital is located, for voluntary representation either for the  
65 appointment of a conservator of the person or a conservator of the  
66 estate, or both. If the application excuses bond, no bond shall be  
67 required by the court unless later requested by the respondent or  
68 unless facts are brought to the attention of the court that a bond is  
69 necessary for the protection of the respondent. Upon receipt of the  
70 application, the court shall set a time and place for hearing and shall  
71 give such notice as [it] the court may direct to the petitioner, the  
72 petitioner's spouse, if any, the Commissioner of Administrative  
73 Services, if the respondent is receiving aid or care from the state, and  
74 to other interested parties, if any. After seeing the respondent in  
75 person and hearing his or her reasons for the application and after  
76 explaining to the respondent that granting the petition will subject the  
77 respondent or respondent's property, as the case may be, to the  
78 authority of the conservator, the court may grant voluntary  
79 representation and thereupon shall appoint a conservator of the person  
80 or a conservator of the estate, or both, and shall not make a finding  
81 that the petitioner is incapable. The conservator of the person or the  
82 conservator of the estate, or both, shall have all the powers and duties  
83 of a conservator of the person or a conservator of the estate of an  
84 incapable person appointed pursuant to section 45a-650. If the  
85 respondent subsequently becomes disabled or incapable, the authority  
86 of the conservator shall not be revoked as a result of such disability or  
87 incapacity.

88 Sec. 4. Subsection (a) of section 45a-648 of the general statutes is  
89 repealed and the following is substituted in lieu thereof (*Effective*  
90 *October 1, 2006*):

91 (a) An application for involuntary representation may be filed by  
92 any person alleging that a respondent is incapable of managing his or  
93 her affairs or incapable of caring for himself or herself and stating the  
94 reasons for the alleged incapability. The application shall be filed in the  
95 court of probate [in] for the district in which the respondent resides or

96 [has his domicile] is domiciled, or, if the respondent is admitted to a  
97 hospital at the time the application is filed, to the court of probate for  
98 the district in which the hospital is located.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	45a-36a
Sec. 2	<i>July 1, 2006</i>	45a-107(b)
Sec. 3	<i>October 1, 2006</i>	45a-646
Sec. 4	<i>October 1, 2006</i>	45a-648(a)

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Probate Court	Probate Judges and Employees Retirement Fund - See Below	See Below	See Below
Probate Court	PCAF - Revenue Loss	Indeterminate	Indeterminate

Note: PCAF=Probate Court Administration Fund

**Municipal Impact:** None

**Explanation**

**Section 1** of the bill provides an additional two years of credited service to qualifying probate judges. Existing law enhances benefits by four years for qualifying judges and this bill increases the enhancement to six years. The bill also extends the six years of additional credited service to qualifying employees of the probate court. The enhanced benefits are provided for judges and employees whose probate districts are merged on or before November 1, 2010. The extra years of service granted by the bill will increase the plan's liability by an amount that must be calculated by the system's actuary.

**Section 2** of the bill excludes various items from the calculation of the probate fee in connection with decedent's estates. The exclusion of the items will result in a revenue loss to the Probate Court Administration Fund (PCAF), as the value of the total assessment could be lower. The amount of the revenue loss is indeterminate since the current probate administration system does not record statistics related to the relationship between specific items (i.e. life insurance) and fees generated.

Additionally, **Section 2** removes the Connecticut taxable estate as a basis for billing purposes. The removal of the Connecticut taxable estate may not have an immediate impact on the probate system, but the long term impact could be significant. The federal gross estate tax is planned to be phased out in 2010; by eliminating both the federal gross estate tax and the Connecticut taxable estate, two of the four bases<sup>1</sup> for billing purposes will be eliminated, thus resulting in a significant revenue loss to the PCAF.

**Section 2** also eliminates billing on jointly owned property where the gross federal taxable estate is less than \$600,000, resulting in a minimal revenue loss to the PCAF.

**Sections 3 and 4** makes changes to the conservator statutes, which would allow applications to be filed, in the case of hospitalized respondents, in the probate district where the hospital is located. The change to the conservator statutes would not result in a net change to the PCAF. However, probate courts with hospitals would experience an increase in revenue, associated with the filing of conservator and temporary conservator applications<sup>2</sup>, along with any subsequent business associated with conservatorships (i.e. sale of real estate or accounting).

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation expect when set fees are involved, which would not be subject to inflation, but would remain constant unless changed by statute.

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<sup>1</sup> The four bases for billing purposes for decedent estates include (1) inventory, (2) Connecticut taxable estate, (3) federal gross estate tax, and (4) succession tax (for estates prior to 2005).

<sup>2</sup> The application fee for a conservator or temporary conservator is \$150.

**OLR Bill Analysis**  
**SB 431**

***AN ACT CONCERNING RETIREMENT OF PROBATE JUDGES AND EMPLOYEES, THE FEES OF THE PROBATE COURT SYSTEM AND PROBATE COURT JURISDICTION OF APPLICATIONS FOR VOLUNTARY OR INVOLUNTARY REPRESENTATION OF A PERSON ADMITTED TO A HOSPITAL.***

**SUMMARY:**

The bill allows any probate court employee serving on or after October 1, 2006, for a probate district that is merged with another district by November 1, 2010, to elect to receive (1) six years of credited service toward retirement, (2) a reduction of his retirement age of up to six years, or (3) any combination that does not exceed six years in total.

The bill also allows certain probate judges to elect to receive six instead of four years of credited service toward retirement, or to elect to receive a reduction of his or her retirement age of not more than six instead of four years. This option applies only to probate judges (1) who are in office on or after October 1, 1997; (2) whose probate district is merged with another district by November 1, 2010; and (3) who have not been elected to a term that begins at the time of, or after the consolidation. Under the bill, a judge may elect any combination of credited service and reduction of retirement age as long as the combination does not exceed six instead of four years in total.

The bill allows an application for the voluntary or involuntary appointment of conservator of a hospitalized person to be filed in the probate court for the district in which the hospital is located. By law, such applications may also be filed in the district in which the patient resides or is domiciled.

The bill also excludes certain assets from inclusion in the calculation of probate fees.

**Probate Fees**

The bill excludes the following items from the calculation of probate fees in connection with the administration of decedent's estates in probate court

1. proceeds of any life insurance includable in the gross estate,
2. the fair market value of any real property or tangible personal property includable in the gross estate but located outside Connecticut, and
3. the amount of any indebtedness secured by a mortgage or lien on real property that is part of the gross estate.

The bill also eliminates a probate fee of .1% against non-solely-owned real estate for estates where (1) the gross taxable estate is less than \$600, 000 and (2) no succession tax return must be filed.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 38    Nay 0    (03/24/2006)