



General Assembly

February Session, 2006

Raised Bill No. 5391

LCO No. 1609

01609_____PRI

Referred to Committee on Program Review and Investigations

Introduced by:
(PRI)

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS
COMMITTEE CONCERNING THE CONNECTICUT PROBATE COURT
SYSTEM.**

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

1 Section 1. (*Effective from passage*) The Probate Court Administrator,
2 in consultation with the executive committee of the Connecticut
3 Probate Assembly, shall obtain the services of an independent financial
4 advisor, or similar expert, to develop a proposed mechanism for the
5 compensation of judges of probate. Such proposed mechanism shall
6 take into account the health insurance and retirement benefits
7 provided to judges of probate under current law and the time and
8 skills reasonably necessary to perform the duties of a judge of probate.
9 The cost of such services shall be paid from the Probate Court
10 Administration Fund established under section 45a-82 of the 2006
11 supplement to the general statutes, as amended by this act. Not later
12 than September 1, 2006, the Probate Court Administrator shall submit
13 a report containing such proposed mechanism and any recommended
14 legislation to the joint standing committee of the General Assembly
15 having cognizance of matters relating to the judiciary, in accordance

16 with the provisions of section 11-4a of the general statutes.

17 Sec. 2. (*Effective from passage*) The Probate Court Administrator shall
18 prepare a written report detailing the experience of the regional
19 children's probate court established pursuant to subsection (b) of
20 section 45a-8a of the 2006 supplement to the general statutes. Not later
21 than May 31, 2006, the Probate Court Administrator shall submit the
22 report required under this section to the joint standing committees of
23 the General Assembly having cognizance of matters relating to the
24 judiciary and human services, in accordance with the provisions of
25 section 11-4a of the general statutes.

26 Sec. 3. (*Effective from passage*) (a) The Probate Court Administrator,
27 in consultation with the Commissioner of Children and Families, shall
28 develop a written implementation plan for the establishment of
29 additional regional children's probate courts pursuant to subsection (c)
30 of section 45a-8a of the 2006 supplement to the general statutes. The
31 implementation plan shall, at a minimum: (1) Identify the regions, and
32 the probate districts located in such regions, that may be designated
33 for the establishment of such courts; (2) describe the selection process
34 for towns and cities that may participate in the establishment of such
35 courts, including the method of determining the willingness of such
36 towns and cities to participate; (3) outline the anticipated costs of
37 establishing such courts based on the experience of any regional
38 children's probate courts established prior to the effective date of this
39 section; and (4) describe the roles of any state agencies that may
40 participate in such courts, including, but not limited to, the
41 Department of Children and Families and the Department of Mental
42 Health and Addiction Services, and address whether such agencies
43 should provide financial contributions to the operation of such courts
44 for services provided to clients of such agencies.

45 (b) Not later than May 31, 2006, the Probate Court Administrator
46 shall submit the implementation plan required under this section to
47 the joint standing committees of the General Assembly having

48 cognizance of matters relating to the judiciary and human services, in
49 accordance with the provisions of section 11-4a of the general statutes.

50 (c) Notwithstanding the provisions of subsection (c) of section 45a-
51 8a of the 2006 supplement to the general statutes, no additional
52 regional children's probate courts may be established pursuant to said
53 subsection until the implementation plan required under this section is
54 submitted in accordance with subsection (b) of this section. The
55 provisions of this subsection do not apply to any regional children's
56 probate court established prior to the effective date of this section.

57 Sec. 4. (*Effective from passage*) The Probate Court Administrator, in
58 consultation with the Connecticut Probate Assembly, shall study the
59 adequacy of the Probate Court Administrator's enforcement authority
60 with respect to a judge of probate in any situation involving
61 noncompliance or other conduct of such judge that does not warrant
62 the filing of a complaint with the Council on Probate Judicial Conduct
63 pursuant to section 45a-63 of the general statutes. The study shall
64 include, but not be limited to, a consideration of the imposition of
65 monetary sanctions in appropriate situations. Not later than September
66 1, 2006, the Probate Court Administrator shall submit a report
67 containing the Probate Court Administrator's findings and
68 recommendations, including any recommended legislation, to the
69 Chief Justice of the Supreme Court and the joint standing committee of
70 the General Assembly having cognizance of matters relating to the
71 judiciary, in accordance with the provisions of section 11-4a of the
72 general statutes.

73 Sec. 5. (*Effective from passage*) The Probate Court Administrator, in
74 consultation with the Connecticut Probate Assembly, shall prepare a
75 report identifying potential opportunities for the voluntary
76 consolidation of existing probate districts to achieve a minimum
77 weighted-workload in each probate district. The report shall take into
78 consideration: (1) The adequacy of existing court facilities; (2) the
79 potential expense of expanded court facilities; (3) any reasonable

80 impact of consolidation on travel to and from consolidated court
81 locations; and (4) the impact of any anticipated increase in the number
82 of regional children's probate courts, pursuant to subsection (c) of
83 section 45a-8a of the 2006 supplement to the general statutes, on the
84 existing workload of other probate courts. Not later than September 1,
85 2006, the Probate Court Administrator shall submit an initial report
86 under this section to the Connecticut Probate Assembly and the chief
87 elected official of each town and city affected by any such
88 consolidation, for comment. Not later than December 31, 2006, the
89 Probate Court Administrator shall submit the final report under this
90 section, including any comments made by the Connecticut Probate
91 Assembly and any such chief elected official, to the Chief Justice of the
92 Supreme Court and the joint standing committee of the General
93 Assembly having cognizance of matters relating to the judiciary, in
94 accordance with the provisions of section 11-4a of the general statutes.

95 Sec. 6. Section 45a-27 of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective October 1, 2006*):

97 (a) Each person who is elected to a first term as a judge of probate
98 after [October 1, 1993,] the effective date of this section shall complete
99 the training program established pursuant to subsection (b) of this
100 section and pass the examination required pursuant to subsection (d)
101 of this section.

102 (b) The Probate Court Administrator, in consultation with the
103 Connecticut Probate Assembly, shall establish, supervise and fund a
104 program of training for newly-elected probate judges that shall
105 include: (1) A course [to be taken between the date of election and the
106 date of assuming office] concerning the rules of judicial conduct for a
107 judge of probate, the ethical considerations arising in that office, the
108 operation of a probate court, and the availability of assistance for a
109 judge in the operation of a probate court; and (2) courses [to be taken
110 within six months after the date of assuming office] that provide
111 fundamental training in (A) civil procedure, including constitutional

112 issues, due process, and evidentiary considerations, (B) property law,
113 including conveyancing and title considerations, (C) the law of wills
114 and trusts, and (D) family law in the context of the probate courts. The
115 courses required by this subsection shall be taken between the date of
116 election and the date of assuming office.

117 (c) The curriculum for the courses required by subsection (b) of this
118 section shall be established by the Probate Court Administrator, in
119 consultation with the Connecticut Probate Assembly, and shall be
120 designed to establish a minimum level of proficiency by judges of
121 probate. The courses shall be given by qualified instructors approved
122 by the Probate Court Administrator. The Probate Court Administrator
123 may waive completion of a course required by subdivision (2) of
124 subsection (b) on demonstration by a probate judge of proficiency in
125 the subject matter. The Probate Court Administrator may, for good
126 cause, allow a probate judge to satisfy a requirement of subsection (b)
127 of this section by auditing, at the office of the Probate Court
128 Administrator or at such other place as the Probate Court
129 Administrator may designate, instructional tapes approved by the
130 Probate Court Administrator. [The Probate Court Administrator shall
131 adopt appropriate time requirements for training of a probate judge
132 elected in a special election and may modify other requirements of this
133 section as circumstances may require.]

134 (d) Upon completion of the courses required by subsection (b) of
135 this section, and prior to the date of assuming office, each newly-
136 elected probate judge shall demonstrate competency in the subject
137 matters set forth in said subsection by achieving a passing grade on an
138 examination given by the Probate Court Administrator. Such
139 examination shall be developed by the Probate Court Administrator, in
140 consultation with the Connecticut Probate Assembly.

141 (e) The Probate Court Administrator shall adopt appropriate time
142 requirements for the training and examination of a probate judge
143 elected in a special election and may modify the requirements of this

144 section as circumstances may require.

145 Sec. 7. Section 45a-27a of the general statutes is repealed and the
146 following is substituted in lieu thereof (*Effective October 1, 2006*):

147 (a) If a probate judge is unable to complete the training or
148 examination required pursuant to section 45a-27, as amended by this
149 act, within the time required, such judge may request an extension of
150 time for completion of the training or examination from the continuing
151 education committee of the Connecticut Probate Assembly. The
152 committee may, for cause shown, grant the requested extension of
153 time.

154 (b) If a probate judge fails to complete the training required
155 pursuant to section 45a-27, as amended by this act, or to take or pass
156 the examination required pursuant to said section 45a-27, within the
157 time required, or within any extension of time granted pursuant to
158 subsection (a) of this section, such judge shall be disqualified to hear
159 any matter as a judge of probate until such time as the judge satisfies
160 the requirements of section 45a-27, as amended by this act, and the
161 Probate Court Administrator may refer the judge to the Council on
162 Probate Judicial Conduct for failure to maintain professional
163 competence as a judge of probate by so failing to complete [the
164 training program pursuant to section 45a-27] such training or to take
165 or pass such examination.

166 Sec. 8. Section 45a-77 of the general statutes is repealed and the
167 following is substituted in lieu thereof (*Effective October 1, 2006*):

168 (a) The Probate Court Administrator may attend to any matters
169 [which] that the Probate Court Administrator deems necessary for the
170 efficient operation of courts of probate and for the expeditious
171 dispatch and proper conduct of the business of [those] such courts. The
172 Probate Court Administrator may make recommendations to the
173 General Assembly for legislation for the improvement of the
174 administration of the courts of probate.

175 (b) (1) The Probate Court Administrator may issue regulations,
176 provided such regulations are approved in accordance with this
177 subsection. Such regulations shall be binding on all courts of probate
178 and shall concern [the] auditing, accounting, statistical, billing,
179 recording, filing and other court procedures. (2) The Probate Court
180 Administrator may adopt regulations, in accordance with chapter 54,
181 provided such regulations are approved in accordance with this
182 subsection. Such regulations shall be binding on all courts of probate
183 and shall concern the availability of judges, court facilities, [court
184 personnel and records, hours of court operation] court records and
185 telephone service. (3) Either the Probate Court Administrator or the
186 executive committee of the Probate Assembly may propose such
187 regulations. Any regulation proposed by the Probate Court
188 Administrator under this subsection shall be submitted to the
189 executive committee of the Connecticut Probate Assembly for
190 approval. Any regulation proposed by the executive committee of the
191 Connecticut Probate Assembly under this subsection shall be
192 submitted to the Probate Court Administrator for approval. If either
193 the Probate Court Administrator or the executive committee of the
194 Connecticut Probate Assembly fails to approve a proposed regulation
195 under this subsection, such proposed regulation may be submitted to a
196 panel of three Superior Court judges appointed by the Chief Justice of
197 the Supreme Court. The panel of judges, after consideration of the
198 positions of the Probate Court Administrator and the executive
199 committee of the Connecticut Probate Assembly, shall either approve
200 the proposed regulation or reject the proposed regulation.

201 (c) The Probate Court Administrator shall issue regulations,
202 provided such regulations are approved in accordance with this
203 subsection. Such regulations shall be binding on all courts of probate
204 and shall establish minimum standards for (1) hours of court
205 operation, (2) court staffing, taking into consideration the need for
206 adequate coverage for employee absence due to the use of vacation
207 time, sick time and personal leave days, and (3) the allowable
208 workload per full-time court employee. Any regulation proposed by

209 the Probate Court Administrator under this subsection shall be
210 submitted to the executive committee of the Connecticut Probate
211 Assembly for approval. If the executive committee of the Connecticut
212 Probate Assembly fails to approve a proposed regulation under this
213 subsection, such proposed regulation may be submitted to a panel of
214 three Superior Court judges appointed by the Chief Justice of the
215 Supreme Court. The panel of judges, after consideration of the
216 positions of the Probate Court Administrator and the executive
217 committee of the Connecticut Probate Assembly, shall either approve
218 the proposed regulation or reject the proposed regulation.

219 [(c)] (d) The Probate Court Administrator shall regularly review the
220 auditing, accounting, statistical, billing, recording, filing and other
221 procedures, the hours of operation and the staffing of the several
222 courts of probate.

223 [(d)] (e) The Probate Court Administrator shall, personally, or by an
224 authorized designee of the Probate Court Administrator who has been
225 admitted to the practice of law in this state for at least five years, visit
226 each court of probate at least once during each two-year period to
227 examine the records and files of such court in the presence of the judge
228 of the court or the judge's authorized designee. The Probate Court
229 Administrator shall make [whatever] such additional inquiries [are
230 deemed] as the Probate Court Administrator deems appropriate, to
231 ascertain whether the business of the court, including the charging of
232 costs and payments to the State Treasurer, has been conducted in
233 accordance with law, rules of the courts of probate and the canons of
234 judicial ethics, and to obtain information concerning the business of
235 the courts of probate [which] that is necessary for the [administrator]
236 Probate Court Administrator to perform properly the duties of the
237 office.

238 Sec. 9. Subsection (i) of section 45a-82 of the 2006 supplement to the
239 general statutes is repealed and the following is substituted in lieu
240 thereof (*Effective July 1, 2006*):

241 (i) The State Treasurer shall, on or before October first, annually,
242 give an accounting of the Probate Court Administration Fund,
243 showing the receipts and disbursements and the balance or condition
244 thereof, as of the preceding June thirtieth, to the Connecticut Probate
245 Assembly and to the joint standing committee of the General Assembly
246 having cognizance of matters relating to the judiciary. Such accounting
247 shall include an independent audit of said fund.

248 Sec. 10. Subsection (a) of section 45a-84 of the general statutes is
249 repealed and the following is substituted in lieu thereof (*Effective July*
250 *1, 2006*):

251 (a) On or before April first of each year, the Probate Court
252 Administrator shall prepare a proposed budget for the next succeeding
253 fiscal year beginning July first, for the appropriate expenditures of
254 funds from the Probate Court Administration Fund to carry out the
255 statutory duties of the Probate Court Administrator. The Probate Court
256 Administrator shall submit the proposed budget to the executive
257 committee of the Connecticut Probate Assembly for review. The
258 executive committee shall return the proposed budget to the Probate
259 Court Administrator no later than May first, together with its
260 comments and recommendations concerning the proposed
261 expenditures. The Probate Court Administrator shall thereafter
262 prepare a proposed final budget, including such changes
263 recommended by the executive committee, as the Probate Court
264 Administrator deems appropriate. On or before May fifteenth, the
265 Probate Court Administrator shall transmit the proposed final budget
266 to the Chief Court Administrator for approval, together with the
267 comments and recommendations of the executive committee of the
268 Connecticut Probate Assembly. On or before June fifteenth of that year,
269 the Chief Court Administrator shall take such action on the budget, or
270 any portion thereof, as the Chief Court Administrator deems
271 appropriate. If the Chief Court Administrator fails to act on the
272 proposed budget on or before June fifteenth, the budget shall be
273 deemed approved as proposed. For the budget prepared and

274 approved under this subsection for the fiscal year ending June 30, 2007,
275 and for each fiscal year thereafter, the percentage of any increase in the
276 total amount of such budget over the total amount of the budget for
277 the immediately preceding fiscal year shall not exceed the percentage
278 of the estimated increase in the Probate Court Administration Fund for
279 the immediately preceding fiscal year.

280 Sec. 11. Subsection (c) of section 45a-111 of the general statutes is
281 repealed and the following is substituted in lieu thereof (*Effective July*
282 *1, 2006*):

283 (c) If a petitioner or applicant to a court of probate claims that unless
284 his or her obligation to pay the fees and the necessary costs of the
285 action, including the cost of service of process, is waived, such
286 petitioner or applicant will be deprived by reason of his or her
287 indigency of his or her right to bring a petition or application to such
288 court or that he or she is otherwise unable to pay the fees and
289 necessary costs of the action, he or she may file with the clerk of such
290 court of probate an application for waiver of payment of such fees and
291 necessary costs. Such application shall be signed under penalty of false
292 statement, shall state the applicant's financial circumstances, and shall
293 identify the fees and costs sought to be waived and the approximate
294 amount of each. If the court finds that the applicant is unable to pay
295 such fees and costs, [it] the court shall order such fees and costs
296 waived. If such costs include the cost of service of process, the court, in
297 its order, shall indicate the method of service authorized and the cost
298 of such service shall be paid from funds appropriated to the Judicial
299 Department. [, however, if funds have not been included in the budget
300 of the Judicial Department for such costs, such costs shall be paid from
301 the Probate Court Administration Fund.] Any fee waived under this
302 section shall be reimbursed to the court of probate from the funds
303 appropriated to the Judicial Department. [, however, if funds have not
304 been included in the budget of the Judicial Department for such
305 purposes, such payment shall be made from the Probate Court
306 Administration Fund pursuant to rules and regulations established by

307 the Probate Court Administrator.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>October 1, 2006</i>	45a-27
Sec. 7	<i>October 1, 2006</i>	45a-27a
Sec. 8	<i>October 1, 2006</i>	45a-77
Sec. 9	<i>July 1, 2006</i>	45a-82(i)
Sec. 10	<i>July 1, 2006</i>	45a-84(a)
Sec. 11	<i>July 1, 2006</i>	45a-111(c)

Statement of Purpose:

To implement the recommendations of the Legislative Program Review and Investigations Committee concerning the Connecticut probate court system.

[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.]