



General Assembly

Amendment

February Session, 2006

LCO No. 4094

SB0043104094SRO

Offered by:
SEN. COOK, 18th Dist.

To: Senate Bill No. 431

File No. 447

Cal. No. 332

"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."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (*Effective from passage*) The Probate Court Administrator,
4 subject to the approval of the Connecticut Probate Assembly, shall
5 obtain the services of an independent financial advisor, or similar
6 expert, to develop a proposed mechanism for the compensation of
7 judges of probate. Such proposed mechanism shall take into account
8 the health insurance and retirement benefits provided to judges of
9 probate under current law and the time and skills reasonably
10 necessary to perform the duties of a judge of probate. The cost of such
11 services shall be paid from the Probate Court Administration Fund
12 established under section 45a-82 of the 2006 supplement to the general
13 statutes, as amended by this act. Not later than September 1, 2006, the

14 Probate Court Administrator shall submit a report containing such
15 proposed mechanism and any recommended legislation to the joint
16 standing committee of the General Assembly having cognizance of
17 matters relating to the judiciary, in accordance with the provisions of
18 section 11-4a of the general statutes.

19 Sec. 502. (*Effective from passage*) The Probate Court Administrator
20 shall prepare a written report detailing the experience of the regional
21 children's probate court established pursuant to subsection (b) of
22 section 45a-8a of the 2006 supplement to the general statutes. Not later
23 than May 31, 2006, the Probate Court Administrator shall submit the
24 report required under this section to the joint standing committees of
25 the General Assembly having cognizance of matters relating to the
26 judiciary and human services, in accordance with the provisions of
27 section 11-4a of the general statutes.

28 Sec. 503. (*Effective from passage*) (a) The Probate Court Administrator,
29 in consultation with the Commissioner of Children and Families, shall
30 develop a written implementation plan for the establishment of
31 additional regional children's probate courts pursuant to subsection (c)
32 of section 45a-8a of the 2006 supplement to the general statutes. The
33 implementation plan shall, at a minimum: (1) Identify the regions, and
34 the probate districts located in such regions, that may be designated
35 for the establishment of such courts; (2) describe the selection process
36 for towns and cities that may participate in the establishment of such
37 courts, including the method of determining the willingness of such
38 towns and cities to participate; (3) outline the anticipated costs of
39 establishing such courts based on the experience of any regional
40 children's probate courts established prior to the effective date of this
41 section; and (4) describe the roles of any state agencies that may
42 participate in such courts, including, but not limited to, the
43 Department of Children and Families and the Department of Mental
44 Health and Addiction Services, and address whether such agencies
45 should provide financial contributions to the operation of such courts
46 for services provided to clients of such agencies.

47 (b) Not later than May 31, 2006, the Probate Court Administrator
48 shall submit the implementation plan required under this section to
49 the joint standing committees of the General Assembly having
50 cognizance of matters relating to the judiciary and human services, in
51 accordance with the provisions of section 11-4a of the general statutes.

52 Sec. 504. (NEW) (*Effective from passage*) Notwithstanding the
53 provisions of subsection (c) of section 45a-8a of the 2006 supplement to
54 the general statutes, except for the regional children's probate courts in
55 New Haven, Meriden-Wallingford and New London, no additional
56 regional children's probate courts may be established pursuant to said
57 subsection. Not more than seven hundred fifty thousand dollars,
58 annually, may be expended from the Probate Court Administration
59 Fund for the regional children's probate courts, unless additional
60 funds for such courts are approved by the Connecticut Probate
61 Assembly.

62 Sec. 505. (*Effective from passage*) The Probate Court Administrator, in
63 conjunction with the Connecticut Probate Assembly, shall study the
64 adequacy of the Probate Court Administrator's enforcement authority
65 with respect to a judge of probate in any situation involving
66 noncompliance or other conduct of such judge that does not warrant
67 the filing of a complaint with the Council on Probate Judicial Conduct
68 pursuant to section 45a-63 of the general statutes. The study shall
69 include, but not be limited to, a consideration of the imposition of
70 monetary sanctions in appropriate situations. Not later than September
71 1, 2006, the Probate Court Administrator shall submit a report
72 containing the Probate Court Administrator's findings and
73 recommendations, including any recommended legislation, to the
74 Chief Justice of the Supreme Court and the joint standing committee of
75 the General Assembly having cognizance of matters relating to the
76 judiciary, in accordance with the provisions of section 11-4a of the
77 general statutes.

78 Sec. 506. (*Effective from passage*) The Probate Court Administrator, in
79 conjunction with the Connecticut Probate Assembly, shall prepare a

80 report identifying potential opportunities for the voluntary
81 consolidation of existing probate districts to achieve a minimum
82 weighted-workload in each probate district. The report shall take into
83 consideration: (1) The adequacy of existing court facilities; (2) the
84 potential expense of expanded court facilities; (3) any reasonable
85 impact of consolidation on travel to and from consolidated court
86 locations; and (4) the impact of any anticipated increase in the number
87 of regional children's probate courts, pursuant to subsection (c) of
88 section 45a-8a of the 2006 supplement to the general statutes, on the
89 existing workload of other probate courts. Not later than September 1,
90 2006, the Probate Court Administrator and the Connecticut Probate
91 Assembly shall jointly submit an initial report under this section to the
92 chief elected official of each town and city affected by any such
93 consolidation, for comment. Not later than December 31, 2006, the
94 Probate Court Administrator and the Connecticut Probate Assembly
95 shall jointly submit the final report under this section, including any
96 comments made by any such chief elected official, to the Chief Justice
97 of the Supreme Court and the joint standing committee of the General
98 Assembly having cognizance of matters relating to the judiciary, in
99 accordance with the provisions of section 11-4a of the general statutes.

100 Sec. 507. Section 45a-27 of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective October 1, 2006*):

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

107 (b) The Probate Court Administrator, subject to the approval of the
108 Connecticut Probate Assembly, shall establish, supervise and fund a
109 program of training for newly-elected probate judges that shall
110 include: (1) A course [to be taken between the date of election and the
111 date of assuming office] concerning the rules of judicial conduct for a
112 judge of probate, the ethical considerations arising in that office, the

113 operation of a probate court, and the availability of assistance for a
114 judge in the operation of a probate court; and (2) courses [to be taken
115 within six months after the date of assuming office] that provide
116 fundamental training in (A) civil procedure, including constitutional
117 issues, due process, and evidentiary considerations, (B) property law,
118 including conveyancing and title considerations, (C) the law of wills
119 and trusts, and (D) family law in the context of the probate courts. The
120 courses required by this subsection shall be taken between the date of
121 election and the date of assuming office.

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

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

146 (e) The Probate Court Administrator shall adopt appropriate time
147 requirements for the training and examination of a probate judge
148 elected in a special election and may modify the requirements of this
149 section as circumstances may require.

150 Sec. 508. Section 45a-27a of the general statutes is repealed and the
151 following is substituted in lieu thereof (*Effective October 1, 2006*):

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

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

171 Sec. 509. Section 45a-77 of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective October 1, 2006*):

173 (a) The Probate Court Administrator may attend to any matters
174 [which] that the Probate Court Administrator deems necessary for the
175 efficient operation of courts of probate and for the expeditious
176 dispatch and proper conduct of the business of [those] such courts. The
177 Probate Court Administrator or the Connecticut Probate Assembly

178 may make recommendations to the General Assembly for legislation
179 for the improvement of the administration of the courts of probate.

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

206 (c) The Probate Court Administrator shall issue regulations,
207 provided such regulations are approved in accordance with this
208 subsection. Such regulations shall be binding on all courts of probate
209 and shall establish minimum standards for (1) hours of court
210 operation, (2) court staffing, taking into consideration the need for
211 adequate coverage for employee absence due to the use of vacation

212 time, sick time and personal leave days, and (3) the allowable
213 workload per full-time court employee. Any regulation proposed by
214 the Probate Court Administrator under this subsection shall be
215 submitted to the Connecticut Probate Assembly for approval. If the
216 Connecticut Probate Assembly fails to approve a proposed regulation
217 under this subsection, such proposed regulation may be submitted to a
218 panel of three Superior Court judges appointed by the Chief Justice of
219 the Supreme Court. The panel of judges, after consideration of the
220 positions of the Probate Court Administrator and the Connecticut
221 Probate Assembly, shall either approve the proposed regulation or
222 reject the proposed regulation.

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

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

242 Sec. 510. Subsection (i) of section 45a-82 of the 2006 supplement to
243 the general statutes is repealed and the following is substituted in lieu
244 thereof (*Effective July 1, 2006*):

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

252 Sec. 511. Subsection (a) of section 45a-84 of the general statutes is
253 repealed and the following is substituted in lieu thereof (*Effective July*
254 *1, 2006*):

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

279 subsection for the fiscal year ending June 30, 2007, and for each fiscal
280 year thereafter, the percentage of any increase in the total amount of
281 such budget over the total amount of the budget for the immediately
282 preceding fiscal year shall not exceed the percentage of the estimated
283 increase in the Probate Court Administration Fund for the
284 immediately preceding fiscal year.

285 Sec. 512. Subsection (c) of section 45a-111 of the general statutes is
286 repealed and the following is substituted in lieu thereof (*Effective July*
287 *1, 2006*):

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

313 Sec. 513. Section 4a-15 of the general statutes is repealed and the
314 following is substituted in lieu thereof (*Effective October 1, 2006*):

315 The estate administrator may act as guardian, conservator,
316 administrator or trustee, or in any other fiduciary capacity under the
317 jurisdiction and appointment of the [probate] courts of this state or
318 [like] the courts of any other state or of the United States, or any
319 instrumentality of any other state or of the United States qualified to
320 appoint fiduciaries, only in connection with property of any minor,
321 incapable, incompetent or deceased person who is or has been
322 receiving financial aid from the state. In the case of any person
323 receiving public or medical assistance from the state, the estate
324 administrator shall apply toward the cost of care of such person any
325 assets exceeding limits on assets set by statute or regulations adopted
326 by the Commissioner of Social Services. The estate administrator shall
327 have the same rights and powers and be subject to the same duties and
328 obligations as are possessed by and imposed upon guardians,
329 conservators, administrators and other fiduciaries, and such courts or
330 instrumentalities are authorized to appoint the estate administrator,
331 trustee or other fiduciary in connection with property of any such
332 minor, incapable, incompetent or deceased person. The authority of
333 the estate administrator to act and of the court or instrumentality to
334 appoint such estate administrator shall be limited to cases in which the
335 estate consists of personal property only, and the amount of personal
336 property involved, or the annual income other than state benefits, does
337 not exceed fifty thousand dollars in value. The estate administrator
338 shall be excused from giving any bond in any court proceeding, and
339 shall not be allowed a fee for services.

340 Sec. 514. Subsection (b) of section 9-159s of the general statutes is
341 repealed and the following is substituted in lieu thereof (*Effective*
342 *October 1, 2006*):

343 (b) Any such notice shall indicate that the resident is entitled to vote
344 or register to vote unless the resident is determined incompetent to do
345 so by a [probate] court, or unless the registrars of voters or their

346 designees jointly conclude at a supervised voting session that the
347 resident declines to vote the ballot or they are unable to determine how
348 the resident desires to vote the ballot, as provided in subsection (g) of
349 section 9-159q, as amended. The notice shall also specify that a resident
350 who requires assistance to vote in accordance with section 9-264 by
351 reason of blindness, disability or inability to read or write may receive
352 assistance from a person of the resident's choosing.

353 Sec. 515. Subsection (c) of section 17a-506 of the general statutes is
354 repealed and the following is substituted in lieu thereof (*Effective*
355 *October 1, 2006*):

356 (c) Any person for whom a conservator of the person has been
357 appointed in accordance with sections 45a-644 to 45a-662, inclusive, as
358 amended, may request admission to a hospital for psychiatric
359 disabilities and such hospital may admit such person. The hospital
360 shall notify the conservator and the [probate] court which appointed
361 the conservator of the admission within five business days of such
362 admission. The [probate] court shall, within ten business days after
363 such notice, appoint a physician who is a psychiatrist from the panel
364 provided by the Commissioner of Mental Health and Addiction
365 Services as set forth in subsection (c) of section 17a-498. The physician
366 shall examine the patient within ten business days of [his] the
367 physician's appointment to determine if the patient has given informed
368 consent to his or her hospitalization. The physician shall make a report
369 forthwith to the court. If the court concludes that the patient did not
370 give informed consent to the hospitalization, the court, on its own
371 motion, may proceed in the manner provided in subsections (a), (b), (c)
372 and (f) of section 17a-498. All costs and expenses, including [Probate
373 Court] court entry fees, shall be paid by the patient or, if [he] the
374 patient has a conservator of the estate, by such conservator.

375 Sec. 516. Subsection (e) of section 17a-543 of the general statutes is
376 repealed and the following is substituted in lieu thereof (*Effective*
377 *October 1, 2006*):

378 (e) (1) If it is determined by the head of the hospital and two
379 qualified physicians that a patient is incapable of giving informed
380 consent to medication for the treatment of such patient's psychiatric
381 disabilities and such medication is deemed to be necessary for such
382 patient's treatment, a facility may utilize the procedures established in
383 subsection (d) of this section and may apply to the Probate Court for
384 appointment of a conservator of the person with specific authority to
385 consent to the administration of medication or, in a case where a
386 conservator of the person has previously been appointed under section
387 45a-650, as amended by this act, the facility or the conservator may
388 petition the [Probate Court] court which appointed the conservator to
389 grant such specific authority to the conservator. The conservator shall
390 meet with the patient and the physician, review the patient's written
391 record and consider the risks and benefits from the medication, the
392 likelihood and seriousness of adverse side effects, the preferences of
393 the patient, the patient's religious views, and the prognosis with and
394 without medication. After consideration of such information, the
395 conservator shall either consent to the patient receiving medication for
396 the treatment of the patient's psychiatric disabilities or refuse to
397 consent to the patient receiving such medication.

398 (2) The authority of a conservator to consent to the administration of
399 medication under subdivision (1) of this subsection shall be effective
400 for not more than one hundred twenty days. In the case of continuous
401 hospitalization of the patient beyond such one hundred twenty days, if
402 the head of the hospital and two qualified physicians determine that
403 the patient continues to be incapable of giving informed consent to
404 medication for the treatment of such patient's psychiatric disabilities
405 and such medication is deemed to be necessary for such patient's
406 treatment, the authority of the conservator to consent to the
407 administration of medication may be extended for a period not to
408 exceed one hundred twenty days by order of the [Probate Court] court
409 without a hearing upon application by the head of the hospital.
410 Prompt notice of the order shall be given to the patient, conservator
411 and facility.

412 Sec. 517. Subsection (a) of section 17b-453 of the general statutes is
413 repealed and the following is substituted in lieu thereof (*Effective*
414 *October 1, 2006*):

415 (a) If it is determined that an elderly person is in need of protective
416 services, services shall be initiated, provided the elderly person
417 consents. If the elderly person fails to consent and the protective
418 services staff of the Department of Social Services has reason to believe
419 that such elderly person is incapable of managing his or her personal
420 or financial affairs, the protective services staff shall provide protective
421 services to the extent possible and may apply to the Superior Court or
422 the Probate Court for the appointment of a conservator of the person
423 or a conservator of the estate, as appropriate.

424 Sec. 518. Section 17b-456 of the general statutes is repealed and the
425 following is substituted in lieu thereof (*Effective October 1, 2006*):

426 (a) If the Commissioner of Social Services finds that an elderly
427 person is being abused, neglected, exploited or abandoned and lacks
428 capacity to consent to reasonable and necessary protective services,
429 [he] the commissioner may petition the Superior Court or the Probate
430 Court for appointment of a conservator of the elderly person pursuant
431 to the provisions of sections 45a-644 to 45a-662, inclusive, as amended,
432 in order to obtain such consent.

433 (b) Such elderly person or the individual, agency or organization
434 designated to be responsible for the personal welfare of the elderly
435 person shall have the right to bring a motion in the cause for review of
436 the [Probate Court's] court's determination regarding the elderly
437 person's capacity or an order issued pursuant to sections 17b-450 to
438 17b-461, inclusive.

439 (c) The Superior Court or the Probate Court may appoint, if [it] the
440 court deems appropriate, the Commissioner of Social Services to be the
441 conservator of the person of such elderly person.

442 (d) In any proceeding [in Probate Court] pursuant to the provisions

443 of sections 17b-450 to 17b-461, inclusive, the [Probate Court] court shall
444 appoint an attorney to represent the elderly person if he or she is
445 without other legal representation.

446 Sec. 519. Subsection (b) of section 45a-98 of the general statutes is
447 repealed and the following is substituted in lieu thereof (*Effective*
448 *October 1, 2006*):

449 (b) The jurisdiction of courts of probate to determine title or rights
450 or to construe instruments or to apply the doctrine of cy pres or
451 approximation pursuant to subsection (a) of this section, or to appoint
452 or hear and decide matters concerning conservators of the person or
453 conservators of the estate, or both, pursuant to sections 45a-644 to 45a-
454 662, inclusive, as amended, is concurrent with the jurisdiction of the
455 Superior Court and does not affect the power of the Superior Court as
456 a court of general jurisdiction.

457 Sec. 520. Subsection (a) of section 45a-98a of the general statutes is
458 repealed and the following is substituted in lieu thereof (*Effective*
459 *October 1, 2006*):

460 (a) The Probate Court shall have jurisdiction under subdivision (3),
461 (4) or (5) of subsection (a) of section 45a-98, or under sections 45a-644
462 to 45a-662, inclusive, as amended, only if (1) the matter in dispute is
463 not pending in another court of competent jurisdiction, and (2) the
464 Probate Court does not decline jurisdiction. Before the initial hearing
465 on the merits of a matter in dispute in which jurisdiction is based on
466 subdivision (3), (4) or (5) of subsection (a) of section 45a-98, or sections
467 45a-644 to 45a-662, inclusive, as amended, the Probate Court may, on
468 its own motion, decline to take jurisdiction of the matter in dispute.
469 Before the initial hearing on the merits of such a matter, any interested
470 person may file an affidavit that such person is entitled and intends
471 under section 52-215 to claim a trial of the matter by jury. In [that] such
472 case, the Probate Court shall allow the person filing the affidavit a
473 period of sixty days within which to bring an appropriate civil action
474 in the Superior Court to resolve the matter in dispute. If such an action

475 is brought in the Superior Court, the matter, after determination by the
476 Superior Court, shall be returned to the Probate Court for completion
477 of the Probate Court proceedings.

478 Sec. 521. Subsection (a) of section 45a-151 of the general statutes is
479 repealed and the following is substituted in lieu thereof (*Effective*
480 *October 1, 2006*):

481 (a) Upon application by executors, guardians, conservators,
482 administrators and trustees appointed, or whose appointment has
483 been approved, by the Court of Probate, or by conservators appointed,
484 or whose appointment has been approved, by the Superior Court, the
485 court having jurisdiction may, after such notice as the court shall direct
486 and hearing, authorize such fiduciaries to compromise and settle any
487 doubtful or disputed claims or actions, or any appeal from probate in
488 favor of or against the estates or persons represented by them.

489 Sec. 522. Section 45a-152 of the general statutes is repealed and the
490 following is substituted in lieu thereof (*Effective October 1, 2006*):

491 When any guardian, conservator or testamentary or other trustee
492 required to account in a court of probate, or any conservator required
493 to account in the Superior Court, is unable to settle or adjust any claim
494 against him or her as such, or when any such guardian, conservator or
495 trustee and a claimant against [him] such guardian, conservator or
496 trustee are unable to agree concerning the amount or validity of such
497 claim, such guardian, conservator or trustee may give written notice to
498 such claimant of the disallowance of [his] such claim, wholly or in part.
499 Unless such claimant commences a suit against such guardian,
500 conservator or trustee within four months after such notice has been
501 given, such claimant shall be barred of [his] such claimant's claim
502 against such guardian, conservator or trustee, except such part as has
503 been allowed, and of any such claim against the estate or trust; but, if
504 such [creditor] claimant dies within such four months and before suit
505 has been brought, a period of four months from [his] such claimant's
506 death shall be allowed to [his] such claimant's executor or

507 administrator within which to commence such suit.

508 Sec. 523. Subsection (a) of section 45a-153 of the general statutes is
509 repealed and the following is substituted in lieu thereof (*Effective*
510 *October 1, 2006*):

511 (a) An executor, administrator, conservator, guardian, trustee in
512 insolvency or trustee appointed, or whose appointment has been
513 approved, by a court of probate, or a conservator appointed, or whose
514 appointment has been approved, by the Superior Court, may apply in
515 writing to the court [of probate] having jurisdiction [of his trust] for an
516 order authorizing him or her to submit the matter in controversy to the
517 arbitration of persons who are mutually agreed upon by the applicant
518 and the other party to any matter in controversy which is described in
519 [subsections (a) and (b) of] this section, if: (1) He or she has any claim
520 in his or her capacity as such fiduciary, or on behalf of the interest
521 which he or she represents, against any person or to any property; or
522 (2) any person has any claim against or to any property which is in his
523 or her control in his or her capacity as such fiduciary.

524 Sec. 524. Subsection (a) of section 45a-175 of the general statutes is
525 repealed and the following is substituted in lieu thereof (*Effective*
526 *October 1, 2006*):

527 (a) Courts of probate shall have jurisdiction of the interim and final
528 accounts of testamentary trustees, trustees appointed by the courts of
529 probate, conservators appointed by the courts of probate, guardians,
530 persons appointed by probate courts to sell the land of minors,
531 executors, administrators and trustees in insolvency, and, to the extent
532 provided for in this section, shall have jurisdiction of accounts of the
533 actions of trustees of inter vivos trusts and attorneys-in-fact acting
534 under powers of attorney.

535 Sec. 525. Subsection (a) of section 45a-177 of the general statutes is
536 repealed and the following is substituted in lieu thereof (*Effective*
537 *October 1, 2006*):

538 (a) All conservators appointed by the Court of Probate, guardians,
539 persons appointed by the Court of Probate to sell land of minors and
540 trustees, including those entrusted with testamentary trusts unless
541 excused by the will creating the trust, shall render periodic accounts of
542 their trusts signed under penalty of false statement to the Court of
543 Probate having jurisdiction for allowance, at least once during each
544 three-year period and more frequently if required to do so by the will
545 or trust instrument creating the trust. Periodic accounts for filing only
546 may be submitted to the court at any time during each three-year
547 period. Upon receipt of a periodic account, the court shall cause notice
548 of it and of its availability for examination at the court to be given in
549 such manner and to such parties as [it] the court deems reasonable.
550 Any such party may apply to the court for a hearing on the account. If
551 an application for such a hearing is not received by the court from a
552 party in interest within the time stated in the notice, the periodic
553 account will be filed without hearing thereon and without allowance
554 or disallowance thereof, and shall not be recorded. At the end of each
555 three-year period from the date of the last allowance of a periodic
556 account, or upon the earlier receipt of a final account, there shall be a
557 hearing on all periodic accounts not previously allowed, and the final
558 account, if any, in accordance with sections 45a-178 and 45a-179.

559 Sec. 526. Section 45a-204 of the general statutes is repealed and the
560 following is substituted in lieu thereof (*Effective October 1, 2006*):

561 Trust funds received by executors, trustees, guardians or
562 conservators may be kept invested in the securities received by them,
563 unless it is otherwise ordered by the [Court of Probate] court or unless
564 the instrument under which such trust was created directs that a
565 change of investments shall be made, and the fiduciaries thereof shall
566 not be liable for any loss that may occur by depreciation of such
567 securities.

568 Sec. 527. Subsection (c) of section 45a-436 of the general statutes is
569 repealed and the following is substituted in lieu thereof (*Effective*
570 *October 1, 2006*):

571 (c) The surviving spouse, or the conservator or guardian of the
572 estate of the surviving spouse, with the approval, after notice and
573 hearing, of the court [of probate] by which such conservator or
574 guardian was appointed, shall, not later than one hundred fifty days
575 from the date of the appointment of the first fiduciary, as defined in
576 section 45a-353, file a notice, in writing, of his or her intention to take
577 the statutory share with the court of probate before which the estate is
578 in settlement, and if such notice is not so filed, the surviving spouse
579 shall be barred of such statutory share.

580 Sec. 528. Subsection (b) of section 45a-594 of the general statutes is
581 repealed and the following is substituted in lieu thereof (*Effective*
582 *October 1, 2006*):

583 (b) Compensation payable to the conservator or guardian of any
584 veteran or other beneficiary of the Veterans' Administration for
585 administering moneys paid by the United States through the Veterans'
586 Administration, or revenue or profit from any property wholly or
587 partially acquired therewith, shall be based upon services rendered
588 and shall not exceed five per cent of the amount of moneys received
589 during the period covered by the account. If extraordinary services are
590 rendered by any conservator or guardian, the [Court of Probate] court
591 having jurisdiction, upon petition and hearing, may authorize
592 reasonable additional compensation. A copy of the petition and notice
593 of hearing shall be given to the proper office of the Veterans'
594 Administration in the manner provided for hearing on other petitions
595 or pleadings filed by such conservators or guardians. No commission
596 or compensation shall be allowed on the moneys or other assets
597 received from a prior guardian [nor upon] or on the amount received
598 from liquidation of loans or other investments.

599 Sec. 529. Section 45a-595 of the general statutes is repealed and the
600 following is substituted in lieu thereof (*Effective October 1, 2006*):

601 Upon application of a conservator or the guardian of the estate of a
602 ward, the [Court of Probate] court having jurisdiction may authorize

603 the conservator or guardian to invest income or principal of the estate,
604 to the extent found reasonable by the court under all the
605 circumstances, in one or more policies of life or endowment insurance
606 or one or more annuity contracts issued by a life insurance company
607 authorized to conduct business in this state, on the life of the ward or
608 incapable person, or on the life of a person in whose life the ward or
609 incapable person has an insurable interest. Any such policy or contract
610 shall be the sole property of the ward or incapable person whose funds
611 are invested in it.

612 Sec. 530. Section 45a-598 of the general statutes is repealed and the
613 following is substituted in lieu thereof (*Effective October 1, 2006*):

614 Any person who is the parent of an adult person with mental
615 retardation or a mental disability for whom a conservator of the person
616 or guardian has been appointed may file a motion with the [probate]
617 court having jurisdiction over the conservatorship or guardianship
618 seeking an order of visitation with such adult person. After notice and
619 hearing, the court may grant the order, which shall set forth the terms
620 and conditions of visitation including, but not limited to, the schedule
621 of visitation, including the dates or days, time and place or places in
622 which the visitation can occur, whether overnight visitation will be
623 allowed and any other terms and conditions which the [judge] court
624 determines should be incorporated into the order of visitation which
625 are in the best interest of the person with whom visitation is sought.

626 Sec. 531. Section 45a-644 of the 2006 supplement to the general
627 statutes is repealed and the following is substituted in lieu thereof
628 (*Effective October 1, 2006*):

629 For the purposes of sections 45a-644 to 45a-662, inclusive, as
630 amended, the following terms shall have the following meanings:

631 (a) "Conservator of the estate" means a person, a municipal or state
632 official, or a private profit or nonprofit corporation except a hospital or
633 nursing home, as defined in section 19a-521, appointed by the Superior
634 Court or the Court of Probate under the provisions of sections 45a-644

635 to 45a-662, inclusive, as amended, to supervise the financial affairs of a
636 person found to be incapable of managing his or her own affairs or of a
637 person who voluntarily asks the Superior Court or the Court of
638 Probate for the appointment of a conservator of the estate, and
639 includes a temporary conservator of the estate appointed under the
640 provisions of section 45a-654, as amended by this act.

641 (b) "Conservator of the person" means a person, a municipal or state
642 official, or a private profit or nonprofit corporation, except a hospital
643 or nursing home, as defined in section 19a-521, appointed by the
644 Superior Court or the Court of Probate [Court] under the provisions of
645 sections 45a-644 to 45a-662, inclusive, as amended, to supervise the
646 personal affairs of a person found to be incapable of caring for himself
647 or herself or of a person who voluntarily asks the Superior Court or the
648 Court of Probate for the appointment of a conservator of the person,
649 and includes a temporary conservator of the person appointed under
650 the provisions of section 45a-654, as amended by this act.

651 (c) "Incapable of caring for one's self" or "incapable of caring for
652 himself or herself" means a mental, emotional or physical condition
653 resulting from mental illness, mental deficiency, physical illness or
654 disability, chronic use of drugs or alcohol, or confinement, which
655 results in the person's inability to provide medical care for physical
656 and mental health needs, nutritious meals, clothing, safe and
657 adequately heated and ventilated shelter, personal hygiene and
658 protection from physical abuse or harm and which results in
659 endangerment to such person's health.

660 (d) "Incapable of managing his or her affairs" means that a person
661 has a mental, emotional or physical condition resulting from mental
662 illness, mental deficiency, physical illness or disability, chronic use of
663 drugs or alcohol, or confinement, which prevents [that] such person
664 from performing the functions inherent in managing his or her affairs,
665 and the person has property which will be wasted or dissipated unless
666 proper management is provided, or that funds are needed for the
667 support, care or welfare of the person or those entitled to be supported

668 by [that] such person and that the person is unable to take the
669 necessary steps to obtain or provide funds which are needed for the
670 support, care or welfare of the person or those entitled to be supported
671 by such person.

672 (e) "Involuntary representation" means the appointment of a
673 conservator of the person or a conservator of the estate, or both, after a
674 finding by the Superior Court or the Court of Probate that the
675 respondent is incapable of managing his or her affairs or incapable of
676 caring for himself or herself.

677 (f) "Respondent" means an adult person for whom an application for
678 involuntary representation has been filed or an adult person who has
679 requested voluntary representation.

680 (g) "Voluntary representation" means the appointment of a
681 conservator of the person or a conservator of the estate, or both, upon
682 request of the respondent, without a finding that the respondent is
683 incapable of managing his or her affairs or incapable of caring for
684 himself or herself.

685 (h) "Ward" means a person for whom involuntary representation is
686 granted under sections 45a-644 to 45a-662, inclusive, as amended.

687 Sec. 532. Subsection (c) of section 45a-645 of the general statutes is
688 repealed and the following is substituted in lieu thereof (*Effective*
689 *October 1, 2006*):

690 (c) Such written instrument may excuse the person or persons so
691 designated from giving the [probate] bond required under the
692 provisions of section 45a-650, as amended by this act, if appointed
693 thereafter as a conservator.

694 Sec. 533. Section 45a-646 of the general statutes is repealed and the
695 following is substituted in lieu thereof (*Effective October 1, 2006*):

696 (a) Any person may make application to the superior court for the
697 judicial district, or the court of probate [in] for the probate district, in

698 which [he resides or has his domicile] such person resides or is
699 domiciled for voluntary representation either for the appointment of a
700 conservator of the person or a conservator of the estate, or both. If the
701 application excuses bond, no bond shall be required by the court
702 unless later requested by the respondent or unless facts are brought to
703 the attention of the court that a bond is necessary for the protection of
704 the respondent. Upon receipt of the application, the court shall set a
705 time and place for hearing and shall give such notice as [it] the court
706 may direct to the petitioner, the petitioner's spouse, if any, the
707 Commissioner of Administrative Services, if the respondent is
708 receiving aid or care from the state, and to other interested parties, if
709 any. After seeing the respondent in person and hearing his or her
710 reasons for the application and after explaining to the respondent that
711 granting the petition will subject the respondent or respondent's
712 property, as the case may be, to the authority of the conservator, the
713 court may grant voluntary representation and thereupon shall appoint
714 a conservator of the person or a conservator of the estate, or both, and
715 shall not make a finding that the petitioner is incapable. The
716 conservator of the person or the conservator of the estate, or both, shall
717 have all the powers and duties of a conservator of the person or a
718 conservator of the estate of an incapable person appointed pursuant to
719 section 45a-650, as amended by this act. If the respondent subsequently
720 becomes disabled or incapable, the authority of the conservator shall
721 not be revoked as a result of such disability or incapacity.

722 (b) Any application filed with a court of probate under subsection
723 (a) of this section shall be transferred from the court of probate to the
724 superior court of appropriate venue upon motion of any party except
725 the petitioner. The motion for such transfer shall be filed with the court
726 of probate prior to the beginning of any hearing on the merits. The
727 moving party shall send copies of such motion to all parties of record.
728 The court of probate shall grant such motion the next business day
729 after its receipt by the court. Immediately upon granting the motion,
730 the clerk of the court shall transmit by certified mail the original file
731 and papers to the superior court having jurisdiction. All parties to the

732 proceeding shall be notified of the date on which the file and papers
733 were transferred. Any appointment of an attorney to represent the
734 respondent that is made by the court of probate shall remain in full
735 force and effect notwithstanding the fact that the matter has been
736 transferred to the superior court.

737 Sec. 534. Section 45a-647 of the general statutes is repealed and the
738 following is substituted in lieu thereof (*Effective October 1, 2006*):

739 Any person who is under voluntary representation as provided by
740 section 45a-646, as amended by this act, shall be released from
741 voluntary representation upon giving thirty days' written notice to the
742 [Court of Probate] court.

743 Sec. 535. Section 45a-648 of the general statutes is repealed and the
744 following is substituted in lieu thereof (*Effective October 1, 2006*):

745 (a) An application for involuntary representation may be filed by
746 any person alleging that a respondent is incapable of managing his or
747 her affairs or incapable of caring for himself or herself and stating the
748 reasons for the alleged incapability. The application shall be filed in the
749 superior court for the judicial district, or the court of probate [in] for
750 the probate district, in which the respondent resides or [has his
751 domicile] is domiciled.

752 (b) Any application filed with a court of probate under subsection
753 (a) of this section shall be transferred from the court of probate to the
754 superior court of appropriate venue upon motion of any party except
755 the applicant. The motion for such transfer shall be filed with the court
756 of probate prior to the beginning of any hearing on the merits. The
757 moving party shall send copies of such motion to all parties of record.
758 The court of probate shall grant such motion the next business day
759 after its receipt by the court. Immediately upon granting the motion,
760 the clerk of the court shall transmit by certified mail the original file
761 and papers to the superior court having jurisdiction. All parties to the
762 proceeding shall be notified of the date on which the file and papers
763 were transferred. Any appointment of an attorney to represent the

764 respondent that is made by the court of probate shall remain in full
765 force and effect notwithstanding the fact that the matter has been
766 transferred to the superior court.

767 [(b)] (c) Any person who wilfully files a fraudulent or malicious
768 application for involuntary representation or appointment of a
769 temporary conservator or any person who conspires with another
770 person to file or cause to be filed such an application or any person
771 who wilfully testifies either in court or by report to the court falsely to
772 the incapacity of any person in any proceeding provided for in sections
773 45a-644 to 45a-662, inclusive, as amended, shall be fined not more than
774 one thousand dollars or imprisoned not more than one year, or both.

775 Sec. 536. Section 45a-649 of the general statutes is repealed and the
776 following is substituted in lieu thereof (*Effective October 1, 2006*):

777 (a) Upon an application for involuntary representation, the court
778 shall issue a citation to the following enumerated parties to appear
779 before [it] the court at a time and place named in the citation, which
780 shall be served on the parties at least seven days before the hearing
781 date, which date shall not be more than thirty days after the receipt of
782 the application by the [Court of Probate] court, unless continued for
783 cause shown. Notice of the hearing shall be sent within thirty days
784 after receipt of the application. (1) The court shall direct that personal
785 service be made, by a state marshal, constable or an indifferent person,
786 upon the following: (A) The respondent, except that if the court finds
787 personal service on the respondent would be detrimental to the health
788 or welfare of the respondent, the court may order that such service be
789 made upon counsel for the respondent, if any, and if none, upon the
790 attorney appointed under subsection (b) of this section; (B) the
791 respondent's spouse, if any, if the spouse is not the applicant, except
792 that in cases where the application is for involuntary representation
793 pursuant to section 17b-456, as amended by this act, and there is no
794 spouse, the court shall order notice by certified mail to the children of
795 the respondent and if none, the parents of the respondent and if none,
796 the brothers and sisters of the respondent or their representatives, and

797 if none, the next of kin of such respondent. (2) The court shall order
798 such notice as [it] the court directs to the following: (A) The applicant;
799 (B) the person in charge of welfare in the town where the respondent is
800 domiciled or resident and if there is no such person, the first selectman
801 or chief executive officer of the town if the respondent is receiving
802 assistance from the town; (C) the Commissioner of Social Services, if
803 the respondent is in a state-operated institution or receiving aid, care
804 or assistance from the state; (D) the Commissioner of Veterans' Affairs
805 if the respondent is receiving veterans' benefits or the Veterans' Home,
806 or both, if the respondent is receiving aid or care from such home, or
807 both; (E) the Commissioner of Administrative Services, if the
808 respondent is receiving aid or care from the state; (F) the children of
809 the respondent and if none, the parents of the respondent and if none,
810 the brothers and sisters of the respondent or their representatives; (G)
811 the person in charge of the hospital, nursing home or [some] other
812 institution, if the respondent is in a hospital, nursing home or [some]
813 other institution. (3) The court, in its discretion, may order such notice
814 as [it] the court directs to other persons having an interest in the
815 respondent and to such persons that the respondent requests to be
816 notified.

817 (b) (1) The notice required by subdivision (1) of subsection (a) of this
818 section shall specify (A) the nature of involuntary representation
819 sought and the legal consequences thereof, (B) the facts alleged in the
820 application, and (C) the time and place of the hearing. (2) The notice
821 shall further state that the respondent has a right to be present at the
822 hearing and has a right to be represented by an attorney at his or her
823 own expense. If the respondent is unable to request or obtain counsel
824 for any reason, the court shall appoint an attorney to represent the
825 respondent in any proceeding under this title involving the
826 respondent. If the respondent is unable to pay for the services of such
827 attorney, the reasonable compensation for such attorney shall be
828 established by, and paid from funds appropriated to, the Judicial
829 Department. [, however, if funds have not been included in the budget
830 of the Judicial Department for such purposes, such compensation shall

831 be established by the Probate Court Administrator and paid from the
832 Probate Court Administration Fund.] If the respondent notifies the
833 court in any manner that he or she wants to attend the hearing on the
834 application but is unable to do so because of physical incapacity, the
835 court shall schedule the hearing on the application at a place which
836 would facilitate attendance by the respondent, but if not practical, then
837 the judge shall visit the respondent, if [he or she] the respondent is in
838 the state of Connecticut, before the hearing. Notice to all other persons
839 required by this section shall state only the nature of involuntary
840 representation sought, the legal consequences thereof and the time and
841 place of the hearing.

842 Sec. 537. Subsection (c) of section 45a-650 of the general statutes is
843 repealed and the following is substituted in lieu thereof (*Effective*
844 *October 1, 2006*):

845 (c) [Notwithstanding the provisions of section 45a-7, the] The court
846 may hold the hearing on the application at a place within the state
847 other than its usual courtroom if it would facilitate attendance by the
848 respondent.

849 Sec. 538. Subsection (g) of section 45a-650 of the general statutes is
850 repealed and the following is substituted in lieu thereof (*Effective*
851 *October 1, 2006*):

852 (g) If the court appoints a conservator of the estate of the
853 respondent, [it] the court shall require a [probate] bond. The court
854 may, if [it] the court deems it necessary for the protection of the
855 respondent, require a bond of any conservator of the person appointed
856 under this section.

857 Sec. 539. Subsection (d) of section 45a-651 of the general statutes is
858 repealed and the following is substituted in lieu thereof (*Effective*
859 *October 1, 2006*):

860 (d) During the term of appointment of the Commissioner of Social
861 Services as conservator, if a suitable person or legally qualified person,

862 corporation or municipal or state official is found to replace [such] the
863 commissioner as conservator, such person, corporation or official may
864 be appointed as successor conservator, subject to the approval of the
865 court. [of probate.]

866 Sec. 540. Subsection (c) of section 45a-653 of the general statutes is
867 repealed and the following is substituted in lieu thereof (*Effective*
868 *October 1, 2006*):

869 (c) A notice recorded or lodged pursuant to this section shall state
870 that an application for appointment of a conservator is pending and
871 shall include the name of the alleged incapable person, the name of the
872 applicant, the judicial district or probate district, as applicable, in
873 which the application is pending, and the date of the application. The
874 notice shall be signed and acknowledged by the applicant. The notice
875 shall not include the allegation of facts on which the application is
876 based.

877 Sec. 541. Section 45a-654 of the 2006 supplement to the general
878 statutes is repealed and the following is substituted in lieu thereof
879 (*Effective October 1, 2006*):

880 (a) Upon written application for appointment of a temporary
881 conservator brought by any person deemed by the court to have
882 sufficient interest in the welfare of the respondent, including, but not
883 limited to, the spouse or any relative of the respondent, the first
884 selectman, chief executive officer or head of the department of welfare
885 of the town of residence or domicile of any respondent, the
886 Commissioner of Social Services, the board of directors of any
887 charitable organization, as defined in section 21a-190a, or the chief
888 administrative officer of any nonprofit hospital or such officer's
889 designee, the Superior Court or the Court of Probate may appoint a
890 temporary conservator if the court finds that: (1) The respondent is
891 incapable of managing his or her affairs or incapable of caring for
892 himself or herself, and (2) immediate and irreparable injury to the
893 mental or physical health or financial or legal affairs of the respondent

894 will result if a temporary conservator is not appointed pursuant to this
895 section. The court may, in its discretion, require the temporary
896 conservator to give a [probate] bond. The court shall limit the duties,
897 responsibilities and powers of the temporary conservator to the
898 circumstances that gave rise to the application and shall make specific
899 findings to justify such limitation. In making such findings, the court
900 shall consider the present and previously expressed wishes of the
901 respondent, the abilities of the respondent, any prior appointment of
902 an attorney-in-fact, health care agent, trustee or other fiduciary acting
903 on behalf of the respondent, any support service otherwise available to
904 the respondent and any other relevant evidence. The temporary
905 conservator shall have charge of the property or of the person of the
906 respondent, or both, for such period of time or for such specific
907 occasion as the court finds to be necessary, provided a temporary
908 appointment shall not be valid for more than thirty days, unless at any
909 time while the appointment of a temporary conservator is in effect, an
910 application is filed for appointment of a conservator of the person or a
911 conservator of the estate under section 45a-650, as amended by this act.
912 The court may (A) extend the appointment of the temporary
913 conservator until the disposition of such application under section 45a-
914 650, as amended by this act, or for an additional thirty days, whichever
915 occurs first, or (B) terminate the appointment of a temporary
916 conservator upon a showing that the circumstances that gave rise to
917 the application for appointment of a temporary conservator no longer
918 exist.

919 (b) Except as provided in subsection (e) of this section, an
920 appointment of a temporary conservator shall not be made unless a
921 report is presented to the [judge] court, signed by a physician licensed
922 to practice medicine or surgery in this state, stating: (1) That the
923 physician has examined the respondent and the date of such
924 examination, which shall not be more than three days prior to the date
925 of presentation to the [judge] court; (2) that it is the opinion of the
926 physician that the respondent is incapable of managing his or her
927 affairs or incapable of caring for himself or herself; and (3) the reasons

928 for such opinion. Any physician's report filed with the court pursuant
929 to this subsection shall be confidential. The court may issue an order
930 for the disclosure of the medical information required pursuant to this
931 subsection.

932 (c) (1) If the court determines that the delay resulting from giving
933 notice and appointing an attorney to represent the respondent as
934 required in subsection (d) of this section would cause immediate and
935 irreparable injury to the mental or physical health or financial or legal
936 affairs of the respondent, the court may, ex parte and without prior
937 notice to the respondent, appoint a temporary conservator upon
938 making the findings required in subsection (a) of this section, provided
939 the court makes a specific finding in any decree issued on the
940 application stating the immediate or irreparable injury that formed the
941 basis for the court's determination and why such hearing and
942 appointment was not required.

943 (2) After making such ex parte appointment, the court shall
944 immediately: (A) Appoint an attorney to represent the respondent,
945 provided if the respondent is unable to pay for the services of such
946 attorney, the reasonable compensation for such attorney shall be
947 established by, and paid from funds appropriated to, the Judicial
948 Department; [except that if funds have not been included in the
949 budget of the Judicial Department for such purposes, such
950 compensation shall be established by the Probate Court Administrator
951 and paid from the Probate Court Administration Fund;] (B) schedule
952 the date, place and time of a hearing to be held not later than seventy-
953 two hours after the issuance of the court's decree, excluding Saturdays,
954 Sundays and holidays; and (C) give notice by mail, or such other notice
955 as the court deems appropriate, to the respondent, the respondent's
956 next of kin and such attorney, which notice shall include: (i) A copy of
957 the application for appointment of temporary conservator and the
958 accompanying physician's report; (ii) a copy of the decree appointing a
959 temporary conservator; and (iii) the date, place and time of the hearing
960 scheduled pursuant to subparagraph (B) of this subdivision, except
961 that if the court determines that notice to the respondent under this

962 subdivision would be detrimental to the health or welfare of the
963 respondent, the court may give such notice only to the respondent's
964 next of kin and the respondent's attorney.

965 (3) After such hearing, the court shall confirm or revoke the
966 appointment of the temporary conservator or may modify the duties,
967 responsibilities or powers assigned under such appointment.

968 (d) If the court determines that an ex parte appointment of a
969 temporary conservator pursuant to subsection (c) of this section is not
970 appropriate but finds substantial evidence that appointment of a
971 temporary conservator may be necessary, the court shall hold a
972 hearing on the application. Unless continued by the court for cause,
973 such hearing shall be held not later than seventy-two hours after
974 receipt of the application, excluding Saturdays, Sundays and holidays.
975 Prior to such hearing, the court shall appoint an attorney to represent
976 the respondent in accordance with subsection (c) of this section and
977 shall give such notice as [it] the court deems appropriate to the
978 respondent, the respondent's next of kin and such attorney, which
979 notice shall include a copy of the application for appointment of a
980 temporary conservator and the accompanying physician's report. After
981 hearing and upon making the findings required in subsection (a) of
982 this section, the court may appoint a temporary conservator.

983 (e) The court may waive the medical evidence requirement under
984 subsection (b) of this section if the court finds that the evidence is
985 impossible to obtain because of the refusal of the respondent to be
986 examined by a physician. In any such case, the court may, in lieu of
987 medical evidence, accept other competent evidence. In any case in
988 which the court waives the requirement of medical evidence as
989 provided in this subsection, the court shall (1) make a specific finding
990 in any decree issued on the application stating why medical evidence
991 was not required, and (2) schedule a hearing in accordance with
992 subsection (c) or (d) of this section, which hearing shall take place not
993 later than seventy-two hours after the issuance of the court's decree.

994 (f) Except as provided in subsection (g) of this section, a temporary
995 conservator may not change the respondent's residence unless [a] the
996 court specifically finds, after a hearing, that such change is necessary.

997 (g) (1) If the temporary conservator determines that it is necessary to
998 cause the respondent to be placed in an institution for long-term care,
999 the temporary conservator may make such placement after the
1000 temporary conservator files a report of such intended placement with
1001 the [probate] court that appointed the temporary conservator, except
1002 that if the placement results from the respondent's discharge from a
1003 hospital or if irreparable injury to the mental or physical health or
1004 financial or legal affairs of the respondent would result from filing the
1005 report before making such placement, the temporary conservator shall
1006 make the placement before filing the report, provided the temporary
1007 conservator (A) files the report not later than five days after making
1008 such placement, and (B) includes in the report a statement as to the
1009 hospital discharge or a description of the irreparable injury that the
1010 placement averted.

1011 (2) The report shall set forth the basis for the temporary
1012 conservator's determination, what community resources have been
1013 considered to avoid the placement, and the reasons why the
1014 respondent's physical, mental and psychosocial needs cannot be met in
1015 a less restrictive and more integrated setting. Such community
1016 resources include, but are not limited to, resources provided by the
1017 area agencies on aging, the Department of Social Services, the Office of
1018 Protection and Advocacy for Persons with Disabilities, the Department
1019 of Mental Health and Addiction Services, the Department of Mental
1020 Retardation, any center for independent living, as defined in section
1021 17b-613, any residential care home or any congregate or subsidized
1022 housing. The temporary conservator shall give notice of the placement
1023 and a copy of such report to the respondent and any other interested
1024 parties as determined by the court.

1025 (3) Upon the request of the respondent or such interested party, the
1026 court shall hold a hearing on the report and placement not later than

1027 thirty days after the date of the request. The court may also, in its
1028 discretion, hold a hearing on the report and placement in any case
1029 where no request is made for a hearing. If the court, after such hearing,
1030 determines that the respondent's physical, mental and psychosocial
1031 needs can be met in a less restrictive and more integrated setting
1032 within the limitations of the resources available to the respondent,
1033 either through the respondent's own estate or through private or
1034 public assistance, the court shall order that the respondent be placed
1035 and maintained in such setting.

1036 (4) For the purposes of this subsection, [an] "institution for long-
1037 term care" means a facility that has been federally certified as a skilled
1038 nursing facility or intermediate care facility.

1039 (h) Upon the termination of the temporary conservatorship, the
1040 temporary conservator shall file a written report with the court of his
1041 or her actions as temporary conservator.

1042 Sec. 542. Subsections (a) and (b) of section 45a-655 of the general
1043 statutes are repealed and the following is substituted in lieu thereof
1044 (*Effective October 1, 2006*):

1045 (a) A conservator of the estate appointed under section 45a-646,
1046 45a-650 or 45a-654, as amended by this act, shall, within two months
1047 after the date of his or her appointment, make and file in the [Court of
1048 Probate] court, an inventory under penalty of false statement of the
1049 estate of his or her ward, with the properties thereof appraised or
1050 caused to be appraised, by such conservator, at fair market value as of
1051 the date of his or her appointment. Such inventory shall include the
1052 value of the ward's interest in all property in which the ward has a
1053 legal or equitable present interest, including, but not limited to, the
1054 ward's interest in any joint bank accounts or other jointly held
1055 property. The conservator shall manage all the estate and apply so
1056 much of the net income thereof, and, if necessary, any part of the
1057 principal of the property, which is required to support the ward and
1058 those members of the ward's family whom he or she has the legal duty

1059 to support and to pay the ward's debts, and may sue for and collect all
1060 debts due the ward.

1061 (b) Any conservator of the estate of a married person may apply
1062 such portion of the property of the ward to the support, maintenance
1063 and medical treatment of the ward's spouse which the [Court of
1064 Probate] court, upon hearing after notice, decides to be proper under
1065 the circumstances of the case.

1066 Sec. 543. Section 45a-656 of the 2006 supplement to the general
1067 statutes is repealed and the following is substituted in lieu thereof
1068 (*Effective October 1, 2006*):

1069 (a) The conservator of the person shall have: (1) The duty and
1070 responsibility for the general custody of the respondent; (2) the power
1071 to establish his or her place of abode within the state; (3) the power to
1072 give consent for his or her medical or other professional care, counsel,
1073 treatment or service; (4) the duty to provide for the care, comfort and
1074 maintenance of the ward; (5) the duty to take reasonable care of the
1075 respondent's personal effects; and (6) the duty to report at least
1076 annually to the [probate] court which appointed the conservator
1077 regarding the condition of the respondent. The preceding duties,
1078 responsibilities and powers shall be carried out within the limitations
1079 of the resources available to the ward, either through the ward's own
1080 estate or through private or public assistance.

1081 (b) The conservator of the person shall not have the power or
1082 authority to cause the respondent to be committed to any institution
1083 for the treatment of the mentally ill, except under the provisions of
1084 sections 17a-75 to 17a-83, inclusive, 17a-456 to 17a-484, inclusive, 17a-
1085 495 to 17a-528, inclusive, 17a-540 to 17a-550, inclusive, 17a-560 to 17a-
1086 576, inclusive, 17a-615 to 17a-618, inclusive, and 17a-621 to 17a-664,
1087 inclusive, and chapter 359.

1088 (c) (1) If the conservator of the person determines that it is necessary
1089 to cause the ward to be placed in an institution for long-term care, the
1090 conservator may make such placement after the conservator files a

1091 report of such intended placement with the [probate] court that
1092 appointed the conservator, except that if the placement results from
1093 the ward's discharge from a hospital or if irreparable injury to the
1094 mental or physical health or financial or legal affairs of the ward
1095 would result from filing the report before making such placement, the
1096 conservator shall make the placement before filing the report,
1097 provided the conservator (A) files the report not later than five days
1098 after making such placement, and (B) includes in the report a
1099 statement as to the hospital discharge or a description of the
1100 irreparable injury that the placement averted.

1101 (2) The report shall set forth the basis for the conservator's
1102 determination, what community resources have been considered to
1103 avoid the placement, and the reasons why the ward's physical, mental
1104 and psychosocial needs cannot be met in a less restrictive and more
1105 integrated setting. Such community resources include, but are not
1106 limited to, resources provided by the area agencies on aging, the
1107 Department of Social Services, the Office of Protection and Advocacy
1108 for Persons with Disabilities, the Department of Mental Health and
1109 Addiction Services, the Department of Mental Retardation, any center
1110 for independent living, as defined in section 17b-613, any residential
1111 care home or any congregate or subsidized housing. The conservator
1112 shall give notice of the placement and a copy of such report to the
1113 ward and any other interested parties as determined by the court.

1114 (3) Upon the request of the ward or such interested party, the court
1115 shall hold a hearing on the report and placement not later than thirty
1116 days after the date of the request. The court may also, in its discretion,
1117 hold a hearing on the report and placement in any case where no
1118 request is made for a hearing. If the court, after such hearing,
1119 determines that the ward's physical, mental and psychosocial needs
1120 can be met in a less restrictive and more integrated setting within the
1121 limitations of the resources available to the ward, either through the
1122 ward's own estate or through private or public assistance, the court
1123 shall order that the ward be placed and maintained in such setting.

1124 (4) For the purposes of this subsection, [an] "institution for long-
1125 term care" means a facility that has been federally certified as a skilled
1126 nursing facility or intermediate care facility.

1127 Sec. 544. Subsection (b) of section 45a-656a of the general statutes is
1128 repealed and the following is substituted in lieu thereof (*Effective*
1129 *October 1, 2006*):

1130 (b) If any such conservator neglects to forward payment to the
1131 operator of the home within ten business days as required under
1132 subsection (a) of this section for two consecutive months, the operator
1133 of the home may petition the court [of probate] having jurisdiction for
1134 removal of the conservator. The court may, after notice and a hearing,
1135 remove such conservator.

1136 Sec. 545. Section 45a-657 of the general statutes is repealed and the
1137 following is substituted in lieu thereof (*Effective October 1, 2006*):

1138 If a person has both a conservator of the person and a conservator of
1139 the estate who are not the same person and a conflict arises between
1140 the two concerning the duties and responsibilities or authority of
1141 either, the matter shall be submitted to the court [of probate] which
1142 appointed the conservators. Upon hearing, the court shall order the
1143 course of action which in the court's discretion is in the best interests of
1144 the person under conservatorship. If one of such conservators was
1145 appointed by the superior court and the other of such conservators
1146 was appointed by the court of probate, such matter shall be heard and
1147 such order shall be issued by the superior court having jurisdiction.

1148 Sec. 546. Section 45a-660 of the general statutes is repealed and the
1149 following is substituted in lieu thereof (*Effective October 1, 2006*):

1150 (a) (1) If the court [of probate] having jurisdiction finds a ward to be
1151 capable of caring for himself or herself, the court shall, upon hearing
1152 and after notice, order that the conservatorship of the person be
1153 terminated. If the court finds, upon hearing and after notice which the
1154 court prescribes, that a ward is capable of managing his or her own

1155 affairs, the court shall order that the conservatorship of the estate be
1156 terminated and that the remaining portion of his or her property be
1157 restored to the ward. (2) If the court finds, upon hearing and after
1158 notice which the court prescribes, that a ward has no assets of any kind
1159 remaining except for that amount allowed by subsection (c) of section
1160 17b-80, the court may order that the conservatorship of the estate be
1161 terminated. The court shall thereupon order distribution of the
1162 remaining assets to the conservator of the person or, if there is no
1163 conservator or the conservator declines or is unable to accept or the
1164 conservator is the Commissioner of Social Services, to some suitable
1165 person, to be determined by the court, to hold for the benefit of the
1166 ward, upon such conservator or person giving such [probate] bond, if
1167 any, as the court orders. (3) If any ward having a conservator dies, his
1168 or her property, other than property which has accrued from the sale
1169 of his or her real property, shall be delivered to his or her executor or
1170 administrator. The unexpended proceeds of his or her real property
1171 sold as aforesaid shall go into the hands of the executor or
1172 administrator, to be distributed as such real property would have
1173 been.

1174 (b) (1) In any case under subsection (a) of this section, the
1175 conservator shall file in the court his or her final account, and the court
1176 shall audit the account and allow the account if it is found to be
1177 correct. If the ward is living, the ward and his or her attorney, if any,
1178 shall be entitled to notice by regular mail of any hearing held on the
1179 final account. (2) The court [of probate] having jurisdiction shall send
1180 written notice annually to the ward and his or her attorney that the
1181 ward has a right to a hearing under this section. Upon receipt of
1182 request for such hearing, the court shall set a time and date for the
1183 hearing, which date shall not be more than thirty days from the receipt
1184 of the application unless continued for cause shown.

1185 (c) The court shall review each conservatorship at least every three
1186 years and shall either continue, modify or terminate the order for
1187 conservatorship. The court shall receive and review written evidence
1188 as to the condition of the ward. The conservator, the attorney for the

1189 ward and a physician licensed to practice medicine in this state shall
1190 each submit a written report to the court within forty-five days of the
1191 court's request for such report. If the ward is unable to request or
1192 obtain an attorney, the court shall appoint an attorney. If the ward is
1193 unable to pay for the services of the attorney, the reasonable
1194 compensation of such attorney shall be established by, and paid from
1195 funds appropriated to, the Judicial Department. [If funds have not
1196 been included in the budget of the Judicial Department for such
1197 purposes, such compensation shall be established by the Probate Court
1198 Administrator and paid from the Probate Court Administration Fund.]
1199 The physician shall examine the ward within the forty-five-day period
1200 preceding the date of submission of the physician's report. Any
1201 physician's report filed with the court pursuant to this subsection shall
1202 be confidential. The court may issue an order for the disclosure of
1203 medical information required pursuant to this subsection.

1204 (d) If the court determines, after receipt of the reports from the
1205 attorney for the ward, the physician and the conservator, that there has
1206 been no change in the condition of the ward since the last preceding
1207 review by the court, a hearing on the condition of the ward shall not be
1208 required, but the court, in its discretion, may hold such hearing. If the
1209 attorney for the ward, the physician or conservator requests a hearing,
1210 the court shall hold a hearing within thirty days of such request.

1211 Sec. 547. Section 45a-661 of the 2006 supplement to the general
1212 statutes is repealed and the following is substituted in lieu thereof
1213 (*Effective October 1, 2006*):

1214 When any person under voluntary or involuntary representation
1215 becomes a settled inhabitant of any town in the state in a judicial
1216 district or a probate district other than the one in which a conservator
1217 was appointed, and is an actual resident in such district, the court [of
1218 probate] in which the conservator was appointed shall, upon motion of
1219 the conservator, the person under conservatorship, the first selectman
1220 or the chief executive officer of the town in which the person under
1221 conservatorship resides or the husband or wife or a relative of the

1222 person under conservatorship, transfer the file to the superior court for
1223 the judicial district in which the person under conservatorship resides
1224 at the time of the application, if the conservator was appointed by the
1225 superior court, or to the court of probate for the probate district in
1226 which the person under conservatorship resides at the time of the
1227 application, if the conservator was appointed by the court of probate.
1228 A transfer of the file shall be accomplished by the [probate] court in
1229 which the conservator was originally appointed by making copies of
1230 all recorded documents in the court and certifying each of them and
1231 then causing them to be delivered to the court for the district in which
1232 the person under conservatorship resides. When the transfer is made,
1233 the court [of probate] for the district in which the person under
1234 conservatorship resides at the time of transfer shall thereupon assume
1235 jurisdiction over the conservatorship and all further accounts shall be
1236 filed with such court.

1237 Sec. 548. Section 45a-662 of the general statutes is repealed and the
1238 following is substituted in lieu thereof (*Effective October 1, 2006*):

1239 The court [of probate] in which the conservator of any incapable
1240 person has been appointed may [, concurrently with courts of equity,]
1241 order such conservator to convey the interest of his or her ward in any
1242 real property which ought in equity to be conveyed to another person.

1243 Sec. 549. Section 45a-679 of the general statutes is repealed and the
1244 following is substituted in lieu thereof (*Effective October 1, 2006*):

1245 If a ward has both a plenary guardian or limited guardian of the
1246 person with mental retardation and a conservator of the estate or a
1247 conservator of the person or a temporary conservator who are not the
1248 same person and a conflict arises between the two concerning the
1249 duties and responsibilities or authority of either, the matter shall be
1250 submitted to the court [of probate] making the appointment of such
1251 guardian or conservator and such court shall, after a hearing, order the
1252 course of action which in its discretion is in the best interest of the
1253 ward, provided, if such conservator was appointed by the superior

1254 court, such matter shall be heard and such order shall be issued by the
1255 superior court having jurisdiction.

1256 Sec. 550. Section 47-360 of the general statutes is repealed and the
1257 following is substituted in lieu thereof (*Effective October 1, 2006*):

1258 A deed following the form entitled "Conservator's Deed", when
1259 duly executed, has the force and effect of conveying to the grantee the
1260 fee simple title of an incapable person or such conservator upon an
1261 order of a court [of probate] authorizing and directing the conservator
1262 to sell at private sale the real estate owned by the incapable person,
1263 with covenants that (1) the conservator has full power and authority as
1264 such conservator to sell and convey the same to the grantee, and (2) he
1265 and his successors shall warrant and defend the granted premises
1266 against all claims and demands of any person or persons claiming by
1267 or under such conservator.

1268 Sec. 551. Subdivision (4) of section 52-146f of the general statutes is
1269 repealed and the following is substituted in lieu thereof (*Effective*
1270 *October 1, 2006*):

1271 (4) Communications made to or records made by a psychiatrist in
1272 the course of a psychiatric examination ordered by a court or made in
1273 connection with the application for the appointment of a conservator
1274 by the Superior Court or the Probate Court for good cause shown may
1275 be disclosed at judicial or administrative proceedings in which the
1276 patient is a party, or in which the question of [his] the patient's
1277 incompetence because of mental illness is an issue, or in appropriate
1278 pretrial proceedings, provided the court finds that the patient has been
1279 informed before making the communications that any communications
1280 will not be confidential and provided the communications shall be
1281 admissible only on issues involving the patient's mental condition."