



General Assembly

Amendment

February Session, 2006

LCO No. 4301

SB0015604301SD0

Offered by:

SEN. DAILY, 33rd Dist.

SEN. COOK, 18th Dist.

REP. SPALLONE, 36th Dist.

REP. SHARKEY, 88th Dist.

To: Subst. Senate Bill No. 156

File No. 413

Cal. No. 285

"AN ACT CONCERNING COURT OPERATIONS."

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

15 a report containing such proposed mechanism and any recommended
16 legislation to the joint standing committee of the General Assembly
17 having cognizance of matters relating to the judiciary, in accordance
18 with the provisions of 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 (c) Notwithstanding the provisions of subsection (c) of section 45a-
53 8a of the 2006 supplement to the general statutes, no additional
54 regional children's probate courts may be established pursuant to said
55 subsection until the implementation plan required under this section is
56 submitted in accordance with subsection (b) of this section. The
57 provisions of this subsection do not apply to any regional children's
58 probate court established prior to the effective date of this section.

59 Sec. 504. (*Effective from passage*) The Probate Court Administrator, in
60 consultation with the Connecticut Probate Assembly, shall study the
61 adequacy of the Probate Court Administrator's enforcement authority
62 with respect to a judge of probate in any situation involving
63 noncompliance or other conduct of such judge that does not warrant
64 the filing of a complaint with the Council on Probate Judicial Conduct
65 pursuant to section 45a-63 of the general statutes. The study shall
66 include, but not be limited to, a consideration of the imposition of
67 monetary sanctions in appropriate situations. Not later than September
68 1, 2006, the Probate Court Administrator shall submit a report
69 containing the Probate Court Administrator's findings and
70 recommendations, including any recommended legislation, to the
71 Chief Justice of the Supreme Court and the joint standing committee of
72 the General Assembly having cognizance of matters relating to the
73 judiciary, in accordance with the provisions of section 11-4a of the
74 general statutes.

75 Sec. 505. (*Effective from passage*) The Probate Court Administrator, in
76 consultation with the Connecticut Probate Assembly, shall prepare a
77 report identifying potential opportunities for the voluntary
78 consolidation of existing probate districts to achieve a minimum
79 weighted-workload in each probate district. The report shall take into
80 consideration: (1) The adequacy of existing court facilities; (2) the

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

97 Sec. 506. Section 45a-27 of the general statutes is repealed and the
98 following is substituted in lieu thereof (*Effective October 1, 2006*):

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

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

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

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

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

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

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

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

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

168 Sec. 508. Section 45a-77 of the general statutes is repealed and the
169 following is substituted in lieu thereof (*Effective October 1, 2006*):

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

177 (b) (1) The Probate Court Administrator may issue regulations,
178 provided such regulations are approved in accordance with this

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

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

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

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

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

240 Sec. 509. Subsection (i) of section 45a-82 of the 2006 supplement to
241 the general statutes is repealed and the following is substituted in lieu
242 thereof (*Effective July 1, 2006*):

243 (i) The State Treasurer shall, on or before October first, annually,
244 give an accounting of the Probate Court Administration Fund,

245 showing the receipts and disbursements and the balance or condition
246 thereof, as of the preceding June thirtieth, to the Connecticut Probate
247 Assembly and to the joint standing committee of the General Assembly
248 having cognizance of matters relating to the judiciary. Such accounting
249 shall include an independent audit of said fund.

250 Sec. 510. Subsection (a) of section 45a-84 of the general statutes is
251 repealed and the following is substituted in lieu thereof (*Effective July*
252 *1, 2006*):

253 (a) On or before April first of each year, the Probate Court
254 Administrator shall prepare a proposed budget for the next succeeding
255 fiscal year beginning July first, for the appropriate expenditures of
256 funds from the Probate Court Administration Fund to carry out the
257 statutory duties of the Probate Court Administrator. The Probate Court
258 Administrator shall submit the proposed budget to the executive
259 committee of the Connecticut Probate Assembly for review. The
260 executive committee shall return the proposed budget to the Probate
261 Court Administrator no later than May first, together with its
262 comments and recommendations concerning the proposed
263 expenditures. The Probate Court Administrator shall thereafter
264 prepare a proposed final budget, including such changes
265 recommended by the executive committee, as the Probate Court
266 Administrator deems appropriate. On or before May fifteenth, the
267 Probate Court Administrator shall transmit the proposed final budget
268 to the Chief Court Administrator for approval, together with the
269 comments and recommendations of the executive committee of the
270 Connecticut Probate Assembly. On or before June fifteenth of that year,
271 the Chief Court Administrator shall take such action on the budget, or
272 any portion thereof, as the Chief Court Administrator deems
273 appropriate. If the Chief Court Administrator fails to act on the
274 proposed budget on or before June fifteenth, the budget shall be
275 deemed approved as proposed. For the budget prepared and
276 approved under this subsection for the fiscal year ending June 30, 2007,
277 and for each fiscal year thereafter, the percentage of any increase in the
278 total amount of such budget over the total amount of the budget for

279 the immediately preceding fiscal year shall not exceed the percentage
280 of the estimated increase in the Probate Court Administration Fund for
281 the immediately preceding fiscal year.

282 Sec. 511. Subsection (c) of section 45a-111 of the general statutes is
283 repealed and the following is substituted in lieu thereof (*Effective July*
284 *1, 2006*):

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