



STATE OF CONNECTICUT
SUPREME COURT

CHAMBERS OF
DAVID M. BORDEN
SENIOR ASSOCIATE JUSTICE

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**Testimony of Senior Associate Justice David M. Borden
Judiciary Committee Public Hearing
April 9, 2007**

**Senate Bill 1480, An Act Concerning the Chief Court Administrator And
The Probate Court Administrator**

Thank you for the opportunity to speak today on behalf of the Judicial Branch in regards to Senate Bill 1480, *An Act Concerning the Chief Court Administrator and the Probate Court Administrator*. This bill would subject the Chief Justice's selection of a Chief Court Administrator and a Probate Court Administrator to a legislative confirmation process.

As you may know, approximately thirty years ago, the legislature gave the Chief Justice the authority to select his or her Chief Court Administrator. Prior to this, the Governor appointed the Chief Court Administrator from among the justices of the Supreme Court; the nominee was then subject to legislative confirmation. I respectfully submit that altering the process as suggested in this bill regarding the appointment of the Chief Court Administrator would represent a step backwards.

The Judicial Branch is unique among the branches as the one non-political branch of government. While making the Chief Court Administrator subject to legislative approval may seem to be only a very minor injection of politicization into the process, I believe it could lead to further politicization of Connecticut's judiciary.

As I recall, the rationale for the change back in the 1970's was this very fear that the position of Chief Court Administrator could become politicized, possibly causing a

division between the Chief Justice and Chief Court Administrator. That fear is as true today as it was then. The role of the Chief Court Administrator is just that; he or she is a non-political manager of an organization with nearly 4000 employees. He or she is also charged with carrying out policies and directives issues by the Chief Justice and the Supreme Court. It is imperative that the Chief Justice have the latitude to select a person who shares his or her vision for the Judicial Branch and whom the Chief Justice feels most comfortable having as an administrator.

As opposed to the Judicial Branch, the Legislative Branch is, by its very nature, political. That is healthy, and in accordance with how the framers of the Constitution intended it. However, I am fearful that, should there be an intersection between the judiciary and the legislature regarding a Chief Justice's nominee to be the Chief Court Administrator, political factors could be utilized to scuttle the choice of the Chief Justice.

From a more pragmatic standpoint, I just do not believe that this statutory change is warranted. The process has worked well for the past thirty years; the relationship between succeeding Chief Justices and Chief Court Administrators has been one marked by accord. Furthermore, I cannot recall a single instance in my decades of public service where the Chief Court Administrator has embarrassed the position or has in any way brought disrepute upon the Judicial Branch. Change for the sake of change is not, in my mind, a sufficient reason to enact this provision.

Additionally, if this bill were to be enacted, the Judicial Branch could be without a Chief Court Administrator for up to two months; I do not see how this could possibly be in the best interest of maintaining a well-run, professional, efficient Judicial Branch.

It has also been suggested that the relationship between the Chief Justice and Chief Court Administrator is similar to the relationship between the Governor and her or his commissioners; I respectfully submit that this is not so. The Governor's commissioners oversee many varied functions of state government. Although they work under the general guidance of the Governor, there may be little or no day to day

contact. On the other hand, the Chief Justice and Chief Court Administrator work in close proximity with each other and consultations between the two often occur several times a day.

My concern is reduced when we speak about the selection and appointment of the Probate Court Administrator. Probate court, as opposed to the Superior Court, is a statutory court, not a constitutional court; this is a crucial distinction. In practical terms, this means that the probate court has only the jurisdiction and authority given to it by the legislature. The legislature may, at any time, alter or eliminate the probate court.

While it is true that the Chief Justice currently appoints the Probate Court Administrator, the Judicial Branch has only nominal oversight over the probate system, specifically in the formation of their budget. Should the legislature seek more of a role in selecting the Probate Court Administrator, I see that as appropriate because the court exists subject to legislative prerogative.

Another distinction between the probate courts and the Superior Court is that probate court judges are the only judges in Connecticut that are elected, and they stand for election on a partisan ticket. Thus, subjecting the appointment of the Probate Court Administrator to the will of legislature is not an encroachment, as political factors are already an underpinning of the court's structure.

Thank you for the opportunity to testify on this bill, and I would be pleased to answer any questions that you may have.