



General Assembly

January Session, 2007

Raised Bill No. 1272

LCO No. 4583

04583_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING ADMINISTRATION OF THE COURTS OF
PROBATE AND THE DUTIES OF THE PROBATE COURT
ADMINISTRATOR.**

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

1 Section 1. Section 45a-8 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) The town or towns comprising each probate district shall
4 provide court facilities meeting the minimum standards required by
5 this section. If a probate district consists of more than one town, the
6 expense shall be allocated to the towns in proportion to their grand
7 lists last perfected. Such court facilities shall include: (1) Office space
8 appropriate for the conduct of judicial business, including (A) a room
9 for the judge of probate sufficient in size for ordinary matters in which
10 judicial proceedings may be conducted in private, (B) a separate room
11 for the court staff, and (C) on a prearranged basis, access to a larger
12 hearing room for the conduct of unusually large court hearings; (2)
13 furniture and furnishings appropriate to a court facility; (3) use and
14 maintenance of a copying machine and the necessary supplies; (4) use
15 and maintenance of [microfilming equipment and the necessary

16 supplies, including record books or the equipment to produce records]
17 court record systems and equipment, including such record books and
18 electronic, digital, microfilming or similar systems as determined by
19 the Probate Court Administrator, required to maintain, provide access
20 to and produce court records, and the necessary supplies for such
21 systems, equipment and records; (5) the necessary stationery, postage
22 and other related supplies in order that the court may properly carry
23 out its duties; (6) typing equipment with which to complete the
24 necessary records; (7) basic telephone service, which shall include all
25 local calls; (8) if a court is computerized, a dedicated telephone line
26 and maintenance of the computer equipment; and (9) adequate
27 liability, fire, loss, theft and replacement insurance on the furniture,
28 furnishings, equipment, court facilities and the records of the court.

29 (b) If a town or towns comprising a probate district and the
30 responsible municipal official or officials within such probate district
31 fail to provide the court facilities required by subsection (a) of this
32 section, the Probate Court Administrator shall offer in writing to meet
33 with the judge of probate of the district and the responsible official or
34 officials to discuss such court facilities. After discussion and
35 consideration of the circumstances of the court operations, the Probate
36 Court Administrator may waive or modify the application of a
37 particular requirement of subsection (a) of this section for court
38 facilities.

39 (c) If suitable court facilities are not provided in accordance with
40 subsection (a) or (b) of this section, [(1) The Probate Court
41 Administrator shall submit a report to the joint standing committee of
42 the General Assembly having cognizance of matters relating to the
43 judiciary concerning the failure of the probate district to provide the
44 required court facilities, together with a recommendation that the
45 probate district be abolished as a separate district and be consolidated
46 with a contiguous district where suitable court facilities can be
47 provided; or (2) if, in the opinion of the Probate Court Administrator,
48 abolition of the district is not in the public interest and judicial action is

49 necessary to enforce the provision of suitable court facilities,] the
50 Probate Court Administrator shall (1) bring an action in the Superior
51 Court to enforce the requirements for the provision of suitable court
52 facilities, or (2) take action as authorized under section 4 of this act.

53 (d) Any town located in a probate district that desires to (1)
54 consolidate such probate district with one or more districts, (2) be
55 removed from such probate district to a separate district established
56 for any such town, or (3) be located in another probate district, may, by
57 resolution of its legislative body, petition the General Assembly for
58 such consolidation, separation and creation of a new probate district or
59 relocation. The Probate Court Administrator shall provide such
60 assistance in the preparation of the petition as the officials of the town
61 or towns may request. At the time of submission of a petition to the
62 General Assembly, a copy of the petition shall be sent to the judges of
63 probate in the probate districts to be affected. No probate district may
64 be consolidated with another district until the expiration of the term of
65 office of any probate judge in an affected probate district.

66 (e) Each judge of probate shall provide suitable records and
67 supplies, in accordance with subsection (a) of this section, for the court
68 in the judge's district. The judge of probate shall cause a complete
69 record to be made of all orders passed by such court and of all wills,
70 inventories, distributions, accounts, bonds and returns made to or
71 lodged with such court. The expense of records, microfilming or the
72 equipment to produce records, and of supplies which the judge deems
73 necessary, shall be paid, upon the order of the judge, by the town or
74 towns ~~[composing]~~ comprising the district in proportion to their grand
75 lists last perfected.

76 (f) When the Probate Court Administrator, by regulation, requires
77 that the courts of probate use specified forms, education materials,
78 supplies or equipment not otherwise required by this section, they
79 shall be furnished by the Probate Court Administrator and the expense
80 paid from the ~~[fund]~~ Probate Court Administration Fund established

81 under section 45a-82, as amended by this act.

82 Sec. 2. Section 45a-77 of the general statutes is repealed and the
83 following is substituted in lieu thereof (*Effective October 1, 2007*):

84 (a) The Probate Court Administrator may attend to any matters
85 [which] that the Probate Court Administrator [deems] considers
86 necessary for the efficient operation of the courts of probate and for the
87 expeditious dispatch and proper conduct of the business of [those]
88 such courts. The Probate Court Administrator shall administer and
89 enforce the provisions of this chapter, sections 3 to 7, inclusive, of this
90 act and the regulations issued under this section, and shall ensure
91 performance of the duties of judges of probate and clerks of the courts
92 of probate in accordance with the provisions of this chapter, said
93 sections and such regulations. The Probate Court Administrator may
94 make recommendations to the General Assembly for legislation for the
95 improvement of the administration of the courts of probate.

96 (b) [(1)] The Probate Court Administrator may issue and shall
97 enforce regulations, provided such regulations are approved in
98 accordance with [this] subsection (c) of this section. Such regulations
99 shall be binding on all courts of probate and shall concern [the
100 auditing,] matters for the administration of the probate court system,
101 including, but not limited to: (1) Auditing, accounting, statistical,
102 billing, recording, filing and other court procedures; [(2) The Probate
103 Court Administrator may adopt regulations, in accordance with
104 chapter 54, provided such regulations are approved in accordance with
105 this subsection. Such regulations shall be binding on all courts of
106 probate and shall concern] (2) the availability of judges; [(3)
107 standards for court facilities, court personnel, salaries, court operations
108 and records; [, hours of court operation and telephone service. (3)] (4)
109 reassignment and transfer of cases; (5) budgets, income and
110 expenditures of the courts of probate; (6) training of court personnel
111 and continuing education programs for judges of probate and court
112 personnel; and (7) the enforcement of the provisions of this chapter,

113 sections 3 to 7, inclusive, of this act and the regulations issued
114 pursuant to this section, including, but not limited to, the imposition of
115 monetary sanctions against a judge of probate who is not in
116 compliance with this chapter, said sections or such regulations, and
117 remediation for such noncompliance.

118 (c) Either the Probate Court Administrator or the executive
119 committee of the Connecticut Probate Assembly may propose [such]
120 regulations authorized under subsection (b) of this section. Any
121 regulation proposed by the Probate Court Administrator shall be
122 submitted to the executive committee of the Connecticut Probate
123 Assembly for approval. Any regulation proposed by the executive
124 committee of the Connecticut Probate Assembly shall be submitted to
125 the Probate Court Administrator for approval. If either the Probate
126 Court Administrator or the executive committee of the Connecticut
127 Probate Assembly fails to approve a proposed regulation, such
128 proposed regulation may be submitted to a panel of three Superior
129 Court judges appointed by the Chief Justice of the Supreme Court. The
130 panel of judges, after consideration of the positions of the Probate
131 Court Administrator and the executive committee of the Connecticut
132 Probate Assembly, shall either approve the proposed regulation or
133 reject the proposed regulation.

134 [(c)] (d) The Probate Court Administrator shall regularly review the
135 auditing, accounting, statistical, billing, recording, filing,
136 administrative and other procedures of the [several] courts of probate.

137 [(d)] (e) The Probate Court Administrator shall, personally, or by an
138 authorized designee of the Probate Court Administrator who has been
139 admitted to the practice of law in this state for at least five years, visit
140 each court of probate at least once during each two-year period to
141 examine the records and files of such court in the presence of the judge
142 of the court or the judge's authorized designee. The Probate Court
143 Administrator shall make [whatever] any additional inquiries [are
144 deemed] that the Probate Court Administrator considers appropriate

145 [] to ascertain whether the business of the court, including the
146 charging of costs and payments to the State Treasurer, has been
147 conducted in accordance with law, rules of the courts of probate,
148 regulations issued under this section and the canons of judicial ethics,
149 and to obtain information concerning the business of the courts of
150 probate which is necessary for the [administrator] Probate Court
151 Administrator to perform properly the duties of the office.

152 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) There shall be a Probate
153 Court Review Panel to hear matters brought to the review panel by the
154 Probate Court Administrator pursuant to section 4 of this act. The
155 review panel shall consist of the following members: (1) The president-
156 judge of the Connecticut Probate Assembly or, in the absence or
157 disability of the president-judge, the first vice-president-judge of the
158 Connecticut Probate Assembly; (2) one judge of probate designated by
159 the Probate Court Administrator; and (3) one individual designated by
160 the Chief Court Administrator.

161 (b) The Probate Court Review Panel shall establish rules of
162 procedure for the conduct of hearings before the review panel. Such
163 rules of procedure shall address matters including, but not limited to,
164 the notice of the Probate Court Administrator's determination and
165 reasons therefor under subsection (a) of section 4 of this act, the
166 content of a notice of hearing, conduct of the hearing, evidence,
167 subpoenas, productions of documents, continuances, intervenors,
168 record of hearing and the right to cross-examine, present arguments
169 and inspect and copy relevant materials.

170 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) If the Probate Court
171 Administrator determines that the business of a court of probate has
172 not been conducted in accordance with law, the regulations issued
173 pursuant to section 45a-77 of the general statutes, as amended by this
174 act, or the canons of judicial ethics, or that the business of a court of
175 probate is not being conducted properly or with expeditious dispatch,
176 or that suitable court facilities are not being provided for a court of

177 probate in accordance with subsection (a) or (b) of section 45a-8 of the
178 general statutes, as amended by this act, the Probate Court
179 Administrator shall give written notice of such determination, and the
180 reasons therefor, to the judge of such court and to the Probate Court
181 Review Panel established pursuant to section 3 of this act. The Probate
182 Court Administrator shall include with such notice the Probate Court
183 Administrator's proposed disposition of the matter, which may
184 include one or more of the following actions: (1) Reassignment of any
185 case pending before such court to a special assignment probate judge
186 or to another judge of probate by means of a citation in the manner
187 provided in section 45a-120 of the general statutes; (2) designation of a
188 special assignment probate judge to assist the judge of such court in
189 conducting the business of such court; or (3) imposition of monetary
190 sanctions against a judge of probate, or remediation under terms
191 established by the Probate Court Administrator, as permitted by
192 regulations issued pursuant to section 45a-77 of the general statutes, as
193 amended by this act.

194 (b) Not later than three business days after receiving notice as
195 provided in subsection (a) of this section, a judge of probate who is the
196 subject of an action of the Probate Court Administrator under this
197 section may request a hearing before the Probate Court Review Panel.
198 Not later than seven business days after receiving such request, the
199 Probate Court Review Panel shall hold a hearing on the Probate Court
200 Administrator's determination and proposed disposition of the matter.
201 The Probate Court Administrator and the judge of probate who is the
202 subject of such action shall have a right to be heard and present
203 evidence at the hearing. After the hearing, a majority of the members
204 of the review panel may affirm, dismiss or modify the Probate Court
205 Administrator's determination and proposed disposition of the matter
206 under subsection (a) of this section. The decision of the Probate Court
207 Review Panel under this subsection shall be final and not subject to
208 appeal.

209 (c) (1) Except as provided in subdivision (2) of this subsection, if a

210 timely request for a hearing is not made by the judge of probate under
211 subsection (b) of this section, the Probate Court Administrator's
212 proposed disposition of the matter under subsection (a) of this section
213 shall take effect immediately upon the expiration of the three-day
214 period set forth in subsection (b) of this section. Such disposition shall
215 be final and not subject to appeal.

216 (2) If the Probate Court Administrator determines that an
217 emergency exists, the Probate Court Administrator's proposed
218 disposition of the matter under subsection (a) of this section shall take
219 effect when the judge of probate receives notice as provided in said
220 subsection. Such proposed disposition shall be subject to such judge's
221 right to a hearing and the decision of the Probate Court Review Panel
222 under subsection (b) of this section, provided the validity of any order
223 or decree made, proceeding held or other action taken by a special
224 assignment probate judge or another judge of probate pursuant to
225 such proposed disposition when an emergency exists shall not be
226 affected by any subsequent decision of the Probate Court Review Panel
227 under subsection (b) of this section.

228 Sec. 5. (NEW) (*Effective October 1, 2007*) (a) There shall be special
229 assignment probate judges appointed by the Chief Justice of the
230 Supreme Court, on nomination by the Probate Court Administrator,
231 from among judges of probate elected as provided in section 45a-18 of
232 the general statutes and from among former judges of probate. A
233 nominee of the Probate Court Administrator shall have demonstrated
234 the special skill, experience or expertise necessary to serve as a special
235 assignment probate judge. A special assignment probate judge shall
236 serve at the pleasure of the Chief Justice.

237 (b) Special assignment probate judges (1) shall have all of the
238 powers of, and may hear and decide any matter that may be heard and
239 decided by, an elected judge of probate, (2) may preside over such
240 matters as shall be assigned by the Probate Court Administrator,
241 including matters assigned as the result of any action of the Probate

242 Court Review Panel under section 4 of this act, and (3) may assist the
243 Probate Court Administrator in carrying out the duties of the office,
244 including, but not limited to, adjudicating matters before a court of
245 probate that require special skill, experience or expertise or in which
246 the presiding judge of probate is disqualified.

247 Sec. 6. (NEW) (*Effective October 1, 2007*) Subject to the approval of
248 the Chief Court Administrator, the Probate Court Administrator shall
249 fix the compensation of special assignment probate judges appointed
250 pursuant to section 5 of this act. Such compensation shall, on the order
251 of the Probate Court Administrator, be paid from the Probate Court
252 Administration Fund established under section 45a-82 of the general
253 statutes, as amended by this act. Such compensation, including
254 compensation that a special assignment probate judge receives as a
255 judge of probate of the district to which he or she was elected, shall not
256 exceed the compensation provided under subsection (i) of section 45a-
257 92 of the general statutes, as amended by this act. A special assignment
258 probate judge shall have such benefits as may inure to him or her as a
259 judge of probate and shall receive no additional benefits, except
260 compensation provided under this section.

261 Sec. 7. (NEW) (*Effective October 1, 2007*) (a) A court of probate shall
262 be open to the public for the conduct of court business not less than
263 four hours each day, Monday through Friday, excluding holidays, on a
264 regular schedule between the hours of eight o'clock a.m. and five
265 o'clock p.m. The judge of probate of a probate district may close a
266 court temporarily owing to inclement weather, an emergency or other
267 good cause. Such judge shall immediately give notice of a temporary
268 closing to the Probate Court Administrator, together with the reason
269 for such closing and the date and time when the court will reopen.

270 (b) At least one court employee on the staff of each court of probate,
271 other than the judge of probate, shall be present at the court during the
272 hours of its operation.

273 (c) The Probate Court Administrator may, for good cause shown,

274 modify the requirements of this section.

275 Sec. 8. Subsection (l) of section 45a-82 of the general statutes is
276 repealed and the following is substituted in lieu thereof (*Effective*
277 *October 1, 2007*):

278 (l) The Probate Court Administrator may issue regulations pursuant
279 to [subdivision (1) of subsection (b) of] section 45a-77, as amended by
280 this act, in order to carry out the intent of subsections (j) and (k) of this
281 section.

282 Sec. 9. Subsection (c) of section 45a-92 of the general statutes is
283 repealed and the following is substituted in lieu thereof (*Effective*
284 *October 1, 2007*):

285 (c) Each judge of probate or personal representative, except a judge
286 of probate who is the Probate Court Administrator, shall at the time of
287 filing such returns pay to the State Treasurer to be credited to the fund
288 established by section 45a-82, as amended by this act, a percentage of
289 the annual net income from such office based on the following table in
290 which the percentage appearing in the left column shall first be
291 multiplied by the minimum annual compensation of a high volume
292 court as provided in subsection (k) of this section, as in effect on the
293 first day of July of the calendar year for which an assessment is due
294 pursuant to this section, the product of which shall then be multiplied
295 by the applicable percentage appearing in the right column:

T1	First 20% of the compensation assessment rate	
T2	of a high volume court	\$1 nominal
T3	Next 6.67%	5%
T4	Next 6.66%	10%
T5	Next 6.67%	15%
T6	Next 6.67%	25%
T7	Next 6.66%	35%

T8	Next 13.34%	50%
T9	Next 33.33%	75%
T10	Next 33.67%	80%
T11	Next 66.67%	85%
T12	Next 133.33%	95%
T13		
T14	Excess over 333.67%, up to the maximum amount computed at 97.5%	
T15	by the Probate Court Administrator	
T16		
T17	All over the maximum amount computed at 100% by the Probate	
T18	Court Administrator.	

296 As used [herein] in this subsection, "maximum amount" [shall mean]
297 means the amount of annual net income from such office which, when
298 applying the percentage payments set forth above, shall result in the
299 judge of probate retaining as net compensation, after the payment of
300 the above amounts, no more than the product resulting from the
301 multiplication of seventy-two dollars by the annual weighted-
302 workload of the court, as defined [by regulations to be adopted] in
303 regulations issued by the Probate Court Administrator pursuant to
304 [subdivision (3) of subsection (b) of] section 45a-77, as amended by this
305 act, but not to exceed the compensation of a high volume court as set
306 forth in subsection (k) of this section, provided this limitation shall not
307 apply to those courts described in subsection (k) of this section. Such
308 payment shall be deemed to be a necessary expense of such office, but
309 shall not be deductible from the gross income for the purpose of
310 determining net income of such office under this section.
311 Notwithstanding the provisions of this subsection, the annual
312 minimum compensation of a judge of probate shall be no less than the
313 product resulting from the multiplication of fifteen dollars by the
314 annual weighted-workload of the court, as defined [by regulations to
315 be adopted] in regulations issued by the Probate Court Administrator
316 pursuant to [subdivision (3) of subsection (b) of] section 45a-77, as
317 amended by this act, or no less than the judge's average compensation

318 for the three-year period from January 1, 1996, to December 31, 1998,
319 but, in no event shall that minimum compensation exceed that
320 provided pursuant to subsection (k) of this section.

321 Sec. 10. Subsection (f) of section 45a-92 of the general statutes is
322 repealed and the following is substituted in lieu thereof (*Effective*
323 *October 1, 2007*):

324 (f) If, based upon such estimate, the amount payable shall be less
325 than one hundred dollars, the payment thereof shall be made in one
326 payment on or before December thirty-first of the applicable year.
327 Otherwise, the amount payable shall be made in four substantially
328 equal installments payable on or before the last day of March, June,
329 September and December of the applicable year, except that in the case
330 of an estimate filed pursuant to subdivision (2) of subsection (e) of this
331 section, the amount payable under such estimate shall be made in
332 substantially equal installments on such installment payment dates
333 next following the timely filing of such estimate in such year. The
334 estimated payment may be amended and changed at any time during
335 the year in which it is payable by increasing or decreasing the amount.
336 The amount of such increase or decrease shall be paid for or adjusted
337 in the installment or payment due at the time the estimated assessment
338 is next payable after such amendment. The Probate Court
339 Administrator may [adopt] issue regulations pursuant to [subdivision
340 (1) of subsection (b) of] section 45a-77, as amended by this act, to carry
341 out the intent of this subsection.

342 Sec. 11. Subsection (i) of section 45a-92 of the general statutes is
343 repealed and the following is substituted in lieu thereof (*Effective*
344 *October 1, 2007*):

345 (i) (1) If any estimated quarterly payments required to be paid
346 pursuant to subsection (f) of this section [is] are less than one-fourth of
347 seventy per cent of the total assessment due for that year or less than
348 one-fourth of ninety-five per cent of the assessment paid for the prior
349 year, such person shall be obligated to pay to such fund a penalty of

350 ten per cent of the amount of the deficiency, except that the Probate
351 Court Administrator may waive such penalty for cause in accordance
352 with regulations [adopted] issued pursuant to [subdivision (1) of
353 subsection (b) of] section 45a-77, as amended by this act. Any such
354 penalty shall become payable upon demand by the Probate Court
355 Administrator, and be due within thirty days after such demand, in
356 accordance with regulations [promulgated] issued by the Probate
357 Court Administrator, and shall be subject to interest under subdivision
358 (2) of this subsection in the event of default in such payment. (2) Any
359 payments required under subsection (f) or (h) of this section which are
360 not paid at the applicable times prescribed in said subsections, and any
361 penalty payment required under subdivision (1) of this subsection
362 which is not timely paid, shall incur simple interest at the rate
363 applicable under section 12-376 for delinquent payment of succession
364 and transfer taxes where no extension has been granted, to be payable
365 to the State Treasurer and to be added to the fund established under
366 section 45a-82, as amended by this act. Any alleged delinquency of a
367 judge of probate in making payments as required under this section
368 shall be referred by the State Treasurer to the Attorney General for
369 such action as the Attorney General deems necessary.

370 Sec. 12. Subsection (g) of section 5-259 of the general statutes is
371 repealed and the following is substituted in lieu thereof (*Effective*
372 *October 1, 2007*):

373 (g) Notwithstanding the provisions of subsection (a) of this section,
374 the Probate Court Administration Fund established in accordance with
375 section 45a-82, as amended by this act, shall pay for each probate judge
376 and Probate Court employee not more than one hundred per cent of
377 the portion of the premium charged for his or her individual coverage
378 and not more than fifty per cent of any additional cost for his or her
379 form of coverage. The remainder of the premium for such coverage
380 shall be paid by the probate judge or Probate Court employee to the
381 State Treasurer. Payment shall be credited by the State Treasurer to the
382 fund established by section 45a-82, as amended by this act. The total

383 premiums payable shall be remitted by the Probate Court
 384 Administrator directly to the insurance company or companies or
 385 nonprofit organization or organizations providing the coverage. The
 386 Probate Court Administrator shall [establish] issue regulations
 387 governing group hospitalization and medical and surgical insurance in
 388 accordance with [subdivision (1) of subsection (b) of] section 45a-77, as
 389 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	45a-8
Sec. 2	<i>October 1, 2007</i>	45a-77
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	45a-82(l)
Sec. 9	<i>October 1, 2007</i>	45a-92(c)
Sec. 10	<i>October 1, 2007</i>	45a-92(f)
Sec. 11	<i>October 1, 2007</i>	45a-92(i)
Sec. 12	<i>October 1, 2007</i>	5-259(g)

Statement of Purpose:

To redefine the responsibilities of the Probate Court Administrator, to establish a Probate Court Review Panel to oversee the enforcement of probate court regulations, to provide for the appointment of special assignment probate judges, to permit the use of electronic recording equipment for probate court records and to provide for the establishment of minimum standards for courts of probate.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]