



Senate

General Assembly

File No. 538

February Session, 2008

Substitute Senate Bill No. 605

Senate, April 9, 2008

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING JUDICIAL BRANCH OPENNESS.

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

1 Section 1. Section 51-14 of the 2008 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2008*):

4 (a) The judges of the Supreme Court, the judges of the Appellate
5 Court, and the judges of the Superior Court shall adopt and
6 promulgate and may from time to time modify or repeal rules and
7 forms regulating pleading, practice and procedure and rules of
8 evidence in judicial proceedings in courts in which they have the
9 constitutional authority to make rules, for the purpose of simplifying
10 proceedings in the courts and of promoting the speedy and efficient
11 determination of litigation upon its merits. The rules of the Appellate
12 Court shall be as consistent as feasible with the rules of the Supreme
13 Court to promote uniformity in the procedure for the taking of appeals
14 and may dispense, so far as justice to the parties will permit while
15 affording a fair review, with the necessity of printing of records and

16 briefs. Such rules shall not abridge, enlarge or modify any substantive
17 right or the jurisdiction of any of the courts. [Subject to the provisions
18 of subsection (b) of this section, such rules shall become effective on
19 such date as the judges specify but not in any event until sixty days
20 after such promulgation.]

21 [(b) All statutes relating to pleading, practice and procedure in
22 existence on July 1, 1957, shall be deemed to be rules of court and shall
23 remain in effect as such only until modified, superseded or suspended
24 by rules adopted and promulgated by the judges of the Supreme Court
25 or the Superior Court pursuant to the provisions of this section. The
26 Chief Justice shall report any such rules to the General Assembly for
27 study at the beginning of each regular session. Such rules shall be
28 referred by the speaker of the House or by the president of the Senate
29 to the judiciary committee for its consideration and such committee
30 shall schedule hearings thereon. Any rule or any part thereof
31 disapproved by the General Assembly by resolution shall be void and
32 of no effect and a copy of such resolution shall thereafter be published
33 once in the Connecticut Law Journal.]

34 [(c)] (b) The judges or a committee of their number shall hold public
35 hearings, of which reasonable notice shall be given in the Connecticut
36 Law Journal and otherwise as they deem proper, upon any proposed
37 new rule or any change in an existing rule that is to come before said
38 judges for action, and each such proposed new rule or change in an
39 existing rule shall be published in the Connecticut Law Journal as a
40 part of such notice. A public hearing shall be held at least once a year,
41 of which reasonable notice shall likewise be given, at which any
42 member of the bar or layman may bring to the attention of the judges
43 any new rule or change in an existing rule that he deems desirable.

44 [(d) Upon the taking effect of such rules adopted and promulgated
45 by the judges of the Supreme Court pursuant to the provisions of this
46 section, all provisions of rules theretofore promulgated by the judges
47 of the Superior Court shall be deemed to be repealed.]

48 (c) Whenever the rules committee of the Superior Court or the

49 appellate rules committee proposes a new rule or a change in an
50 existing rule, the chairperson of the committee shall forward such
51 proposed new rule or change in an existing rule to the judiciary
52 committee of the General Assembly for review and comment. Not later
53 than thirty days after receipt of such proposed new rule or change in
54 an existing rule, the judiciary committee may forward any comments it
55 may have with respect to such proposed new rule or change in an
56 existing rule to the chairperson of the rules committee. Such
57 chairperson shall distribute any such comments to the judges of the
58 Superior Court, Appellate Court or Supreme Court, as the case may be,
59 at the meeting of such judges held to adopt such proposed new rule or
60 change in an existing rule.

61 (d) Any meeting of the judges of the Superior Court, Appellate
62 Court or Supreme Court held to adopt any proposed new rule or
63 change in an existing rule shall be held not less than thirty days after
64 such proposed rule or change was forwarded to the judiciary
65 committee of the General Assembly pursuant to subsection (c) of this
66 section. Any proposed new rule or change in an existing rule that is
67 adopted by such judges at such meeting shall be promptly forwarded
68 by the chairperson of the appropriate rules committee to the judiciary
69 committee of the General Assembly. Such rule or change shall not
70 become effective earlier than ninety days after the date it is forwarded
71 to the judiciary committee.

72 (e) Within said ninety-day period the judiciary committee may meet
73 to review such new rule or change in an existing rule. The judiciary
74 committee may vote to inform the judges in writing of any concerns it
75 may have with respect to the new rule or change in an existing rule
76 and that if the judges do not revise such new rule or change in an
77 existing rule, such rule or change shall not become effective until the
78 end of the next regular session of the General Assembly.

79 (f) If the judiciary committee informs the judges of concerns it has
80 with respect to a new rule or change in an existing rule as provided in
81 subsection (e) of this section, the judges may, not later than ninety days

82 thereafter, meet and reconsider their adoption of the new rule or
83 change in an existing rule. If the judges reconsider the adoption of
84 such rule or change and decide to make no revisions thereto, the
85 judges shall report such decision to the judiciary committee and such
86 rule or change shall not become effective until the end of the next
87 regular session of the General Assembly. If the judges reconsider the
88 adoption of such rule or change and decide to make revisions thereto,
89 the judges shall promptly forward the revised rule to the judiciary
90 committee. Such revised rule shall not become effective earlier than
91 thirty days after the date it is forwarded to the judiciary committee.

92 (g) Within said thirty-day period the judiciary committee may meet
93 to review such revised rule. If, within said thirty-day period, the
94 judiciary committee meets and votes to inform the judges that it has
95 concerns with the revised rule, the revised rule shall not become
96 effective until the end of the next regular session of the General
97 Assembly.

98 (h) Notwithstanding the provisions of subsections (c) to (g),
99 inclusive, of this section, the judges of the Superior Court, Appellate
100 Court or Supreme Court may adopt a new rule or a change in an
101 existing rule without complying with the procedures set forth in said
102 subsections if the judges determine that extraordinary circumstances
103 exist requiring the immediate adoption and promulgation of such rule
104 or change. Such rule or change shall become effective on such date as
105 the judges specify and shall be in effect for the period specified therein
106 but in no event for a period longer than one year from the date of its
107 adoption unless such rule or change is forwarded to the judiciary
108 committee of the General Assembly and the provisions of subsections
109 (c) to (g), inclusive, of this section are complied with.

110 Sec. 2. Section 51-44a of the general statutes is repealed and the
111 following is substituted in lieu thereof (*Effective October 1, 2008*):

112 (a) There is established a Judicial Selection Commission comprised
113 of twelve members. Six of the members shall be attorneys-at-law and
114 six of the members shall not be attorneys-at-law. Not more than six of

115 the members shall belong to the same political party. None of the
116 members shall be an elected or appointed official of the state or hold
117 state-wide office in a political party.

118 (b) The members of the commission shall be appointed as follows:
119 The Governor shall appoint six members, one from each congressional
120 district and one at-large member, three of whom shall be attorneys-at-
121 law and three of whom shall not be attorneys-at-law; the president pro
122 tempore of the Senate shall appoint one member who shall be an
123 attorney-at-law; the speaker of the House of Representatives shall
124 appoint one member who shall not be an attorney-at-law; the majority
125 leader of the Senate shall appoint one member who shall not be an
126 attorney-at-law; the majority leader of the House of Representatives
127 shall appoint one member who shall be an attorney-at-law; the
128 minority leader of the Senate shall appoint one member who shall not
129 be an attorney-at-law; and the minority leader of the House of
130 Representatives shall appoint one member who shall be an attorney-at-
131 law.

132 (c) The members of the commission shall elect a chairperson from
133 among the members appointed by the Governor.

134 (d) (1) The members of the commission shall serve for terms of three
135 years.

136 (2) Members appointed on or after June 26, 2003, shall serve for
137 terms of three years and, notwithstanding the provisions of section 4-1,
138 until their successors are appointed and have qualified or ninety days
139 after the completion of their terms, whichever is earlier.

140 (3) Members serving on June 26, 2003, shall continue to serve as
141 members until the end of their terms and, notwithstanding the
142 provisions of section 4-1, until their successors are appointed and have
143 qualified or ninety days after the completion of their terms, whichever
144 is earlier, except that members serving on June 26, 2003, who have
145 completed their terms and are serving until their successors are
146 appointed and have qualified shall, notwithstanding the provisions of

147 section 4-1, continue to serve until their successors are appointed and
148 have qualified, but not later than January 1, 2004.

149 (4) Any vacancy in the membership of the commission shall be filled
150 for the unexpired portion of the term by the appointing authority. The
151 members of the commission shall receive no compensation for their
152 services but shall be reimbursed for any necessary expenses incurred
153 in the performance of their duties.

154 (5) No member of the commission may serve consecutive terms,
155 except that if, on or after June 26, 2003, a person is appointed a
156 member of the commission to fill a vacancy and complete an
157 unexpired term, such person may serve an additional term. If a
158 commission member is an attorney, no member of the commission
159 member's firm may serve a term consecutive to such commission
160 member.

161 (e) The commission shall evaluate incumbent judges who seek
162 reappointment to the same court, and incumbent state referees who
163 seek reappointment, and shall forward to the Governor for
164 consideration the names of incumbent judges and state referees who
165 are recommended for reappointment as provided in this subsection.
166 The commission shall adopt regulations, in accordance with the
167 provisions of chapter 54, concerning criteria by which to evaluate
168 incumbent judges who seek reappointment to the same court [;
169 provided pending adoption of such regulations, the commission shall
170 use criteria established prior to June 22, 1989, for the evaluation of such
171 judges] and incumbent state referees who seek reappointment. In
172 evaluating the reappointment of an incumbent judge or state referee,
173 the commission shall consider the legal ability, competence, integrity,
174 character and temperament of such judge or state referee and any
175 other relevant information concerning such judge or state referee.
176 There shall be a presumption that each incumbent judge who seeks
177 reappointment to the same court or incumbent state referee who seeks
178 reappointment qualifies for retention in judicial office. The burden of
179 rebutting such presumption shall be on the commission. The

180 commission shall investigate and interview each incumbent judge and
181 state referee who seeks reappointment and, prior to the expiration of a
182 term of office of such judge or state referee, shall recommend such
183 incumbent judge or state referee for nomination for reappointment by
184 the Governor [to the same court] unless, as provided in this subsection,
185 recommendation of such judge or state referee is denied. If a
186 preliminary examination indicates further inquiry is necessary before a
187 recommendation of reappointment may be made, the commission shall
188 hold a hearing concerning the reappointment of such judge or state
189 referee. The commission shall send notice to the judge or state referee
190 by certified or registered mail, return receipt requested, not less than
191 one hundred eighty days prior to the convening of such legislative
192 session which is to consider the reappointment of the incumbent judge
193 or state referee, (A) that a hearing by the commission on such
194 reappointment shall be held and of the time, date and place of such
195 hearing, which shall be not less than thirty days [nor] or more than
196 forty-five days after the date of such notice, and (B) of specific claims
197 made against the judge or state referee. The commission shall make a
198 record of all hearings conducted pursuant to this subsection. The
199 hearing may be open to the public at the request of the judge or state
200 referee. For the purposes of conducting a hearing under this
201 subsection, not less than ten members of the commission shall be
202 present and voting. A judge or state referee appearing before such a
203 hearing shall be entitled to counsel, to present evidence and to cross-
204 examine witnesses who appear voluntarily. No judge or state referee
205 shall be required to sign or execute any release in order to proceed
206 with the hearing. The commission shall, not later than twenty days
207 after the close of such hearing, render its decision whether it shall
208 recommend such incumbent judge or state referee for nomination for
209 reappointment by the Governor. Any affirmative vote of a majority
210 plus one of the members present and voting shall be required to deny
211 recommendation to the Governor for nomination of an incumbent
212 judge for reappointment to the same court or for nomination of an
213 incumbent state referee for reappointment. A judge or state referee
214 who has not received approval by the commission may, within ten

215 days after receipt of the notice of decision, which shall include a record
216 of the numerical vote, request a rehearing on the grounds that the
217 conclusions of the commission are contrary to the evidence presented
218 at the hearing or the commission failed to comply with the procedural
219 or substantive requirements of this section. The decision of the
220 commission shall be final. There shall be no right of appeal by any
221 judge or state referee appearing before the commission, at law or in
222 equity, or any resort to any court following the decision of the
223 commission.

224 (f) Except as provided in subsection (e) of this section, the
225 commission shall seek qualified candidates for consideration by the
226 Governor for nomination as judges for the Superior Court, Appellate
227 Court and Supreme Court. The commission shall adopt regulations, in
228 accordance with the provisions of chapter 54, concerning criteria by
229 which to evaluate the qualifications of candidates, including
230 incumbent judges who seek appointment to a different court. The
231 commission shall investigate and interview the candidates, including
232 incumbent judges seeking appointment to a different court. A list of
233 such qualified candidates shall be compiled by the commission. Such
234 list shall be confidential and not open to the public or subject to
235 disclosure, except that the names of qualified candidates for the
236 position of associate judge or Chief Justice of the Supreme Court shall
237 be available to the public.

238 (g) The commission shall establish and maintain an Internet web
239 site. The commission shall post on the web site the address and
240 telephone number of the commission's office, the electronic mail
241 address for the commission and information concerning the duties and
242 procedures of the commission. Such information shall include, but not
243 be limited to, the procedure for filing an application to become a judge
244 of the Superior Court, Appellate Court or Supreme Court and a copy
245 of the application form.

246 (h) The commission shall give notice of the time and place of its
247 meetings, and make the agendas for such meetings available to the

248 public, in accordance with the provisions of chapter 14, except that an
249 agenda made available to the public shall not contain any personally
250 identifiable information that might identify candidates, incumbent
251 judges seeking reappointment to the same court or appointment to a
252 different court or incumbent state referees seeking reappointment. The
253 commission shall post such notices and agendas on its Internet web
254 site and provide such notices and agendas to the cochairpersons of the
255 joint standing committee of the General Assembly having cognizance
256 of matters relating to the judiciary.

257 [(g)] (i) In connection with any inquiry concerning the
258 reappointment of an incumbent judge or state referee, the commission
259 shall have the power to issue subpoenas requiring the attendance of
260 witnesses and the production of any books or papers which in the
261 judgment of the commission are relevant to the inquiry. The
262 commission may, upon request of the judge or state referee whose
263 reappointment is at issue, issue a subpoena on behalf of such judge or
264 state referee. If any person disobeys such process or, having appeared
265 in obedience thereto refuses to answer any pertinent question put to
266 [him] such person by the commission [,] or to produce any books and
267 papers pursuant thereto, the commission, on its own behalf or on
268 behalf of the judge or state referee, may apply to the superior court for
269 the judicial district of Hartford setting forth such disobedience to
270 process or refusal to answer, and [said] the court may cite such person
271 to appear before [said] the court to answer such question or to produce
272 such books and papers and, upon [his] such person's refusal [so] to do
273 so, shall commit [him] such person to a community correctional center,
274 there to remain until [he] such person so testifies.

275 [(h)] (j) (1) Judges of all courts, except those courts to which judges
276 are elected, shall be nominated by the Governor exclusively from the
277 list of candidates or incumbent judges submitted by the Judicial
278 Selection Commission. Any candidate or incumbent judge who is
279 nominated from such list by the Governor to be Chief Justice of the
280 Supreme Court, and who is appointed Chief Justice by the General
281 Assembly, shall serve a term of eight years from the date of

282 appointment. The Governor shall nominate a candidate for a vacancy
283 in a judicial position within forty-five days of the date the Governor
284 receives the recommendations of the commission. When considering
285 the nomination of an incumbent judge for reappointment to the same
286 court, the Governor may nominate the incumbent judge if the
287 commission did not deny recommendation for reappointment.
288 Whenever an incumbent judge is denied recommendation for
289 reappointment to the same court by the commission or is
290 recommended by the commission but not nominated by the Governor
291 for reappointment to the same court, or whenever a vacancy in a
292 judicial position occurs or is anticipated, the Governor shall choose a
293 nominee from the list of candidates compiled pursuant to subsection
294 (f) of this section.

295 (2) Notwithstanding the provisions of subdivision (1) of this
296 subsection and subsection (f) of this section, the Governor may
297 nominate an associate judge of the Supreme Court to be Chief Justice
298 of the Supreme Court without such judge being investigated and
299 interviewed by the commission and being on the list of qualified
300 candidates compiled and submitted to the Governor by the
301 commission. An associate judge of the Supreme Court who has been
302 nominated by the Governor to be Chief Justice of the Supreme Court in
303 accordance with this subdivision, and who is appointed Chief Justice
304 by the General Assembly, shall serve an initial term as Chief Justice
305 equal to the remainder of such judge's term as an associate judge of the
306 Supreme Court.

307 (3) When considering the nomination of an incumbent state referee
308 for reappointment, the Governor may nominate the incumbent state
309 referee if the commission did not deny recommendation for
310 reappointment.

311 [(i)] (k) A majority of the membership of the commission shall
312 constitute a quorum. The affirmative vote of at least a majority of the
313 members of the commission present and voting shall be required for
314 any action by the commission, except (1) an affirmative vote of at least

315 a majority plus one of the members present and voting shall be
316 required for a new nominee to be recommended to the Governor for
317 nomination as a judge or for an incumbent judge to be recommended
318 to the Governor for nomination as a judge to a different court, and (2)
319 an affirmative vote of a majority plus one of the members present and
320 voting shall be required to deny recommendation to the Governor for
321 nomination of an incumbent judge for reappointment to the same
322 court or for nomination of an incumbent state referee for
323 reappointment. No vote of the commission on a new nominee shall be
324 by secret ballot. The vote of the commission on an incumbent judge or
325 state referee may be by secret ballot. The total affirmative and negative
326 votes of the membership of the commission to recommend an
327 incumbent judge for reappointment to the same court or appointment
328 to a different court or to recommend an incumbent state referee for
329 reappointment shall be available to the public.

330 [(j)] (l) Except as provided in subsections (e), [and (m)] (f), (h), (k)
331 and (o) of this section, the investigations, deliberations, files and
332 records of the commission shall be confidential and shall not be open
333 to the public or subject to disclosure, except that the criteria by which
334 candidates, [or] incumbent judges who seek reappointment to the
335 same court or appointment to a different court or incumbent state
336 referees who seek reappointment are evaluated and the procedural
337 rules adopted by the commission shall be public.

338 [(k)] (m) The commission may employ such staff as is necessary for
339 the performance of its functions and duties.

340 [(l)] (n) No member of the commission who is an attorney-at-law
341 shall be considered for recommendation to the Governor for
342 nomination as a judge during [his] such member's tenure on the
343 commission or for a period of two years following the termination of
344 [his] such member's tenure on the commission.

345 [(m)] (o) In January of each year, the chairperson of the commission
346 shall report to the joint standing committee [on] of the General
347 Assembly having cognizance of matters relating to the judiciary the

348 following information: (1) The number of candidates interviewed for
349 appointment as new nominees, the number of incumbent judges
350 interviewed for reappointment to the same court, [and] the number of
351 incumbent judges interviewed for appointment to a different court and
352 the number of incumbent state referees interviewed for reappointment,
353 (2) the number of candidates who were recommended and denied
354 recommendation to the Governor as new nominees, the number of
355 incumbent judges recommended and denied recommendation for
356 [appointment] reappointment to the same court, [and] the number of
357 incumbent judges recommended and denied recommendation for
358 appointment to a different court and the number of incumbent state
359 referees recommended and denied recommendation for
360 reappointment, and (3) the statistics regarding the race, gender,
361 national origin, religion and years of experience as members of the bar
362 of all such candidates.

363 [(n)] (p) The commission [shall have the power to] may enter into
364 such contractual agreements as may be necessary for the discharge of
365 its duties concerning the investigation of candidates seeking
366 appointment to a judicial position, [and] incumbent judges seeking
367 reappointment to the same court or appointment to a different court
368 and incumbent state referees seeking reappointment, within the limits
369 of appropriated funds and in accordance with established procedures.

370 Sec. 3. Subsection (a) of section 51-50l of the general statutes is
371 repealed and the following is substituted in lieu thereof (*Effective*
372 *October 1, 2008*):

373 (a) Each senior judge who ceases to hold office as a senior judge
374 because of having reached the age of seventy years and who is an
375 elector and a resident of this state shall be a state referee for the
376 remainder of [his] such senior judge's term of office as a judge and
377 shall be eligible for appointment as a state referee during the
378 remainder of [his] such senior judge's life in the manner prescribed by
379 law for the appointment of a judge of the court of which [he] such
380 senior judge is a member, subject to the provisions of section 51-44a, as

381 amended by this act.

382 Sec. 4. Subsection (a) of section 52-434 of the general statutes is
383 repealed and the following is substituted in lieu thereof (*Effective*
384 *October 1, 2008*):

385 (a) (1) Each judge of the Supreme Court, each judge of the Appellate
386 Court, each judge of the Superior Court and each judge of the Court of
387 Common Pleas who ceases or has ceased to hold office because of
388 retirement other than under the provisions of section 51-49 and who is
389 an elector and a resident of this state shall be a state referee for the
390 remainder of such judge's term of office as a judge and shall be eligible
391 for appointment as a state referee during the remainder of such judge's
392 life in the manner prescribed by law for the appointment of a judge of
393 the court of which such judge is a member, subject to the provisions of
394 section 51-44a, as amended by this act. The Superior Court may refer
395 any civil [,] nonjury case or with the written consent of the parties or
396 their attorneys, any civil jury case pending before the court in which
397 the issues have been closed to a judge trial referee who shall have and
398 exercise the powers of the Superior Court in respect to trial, judgment
399 and appeal in the case, and any proceeding resulting from a demand
400 for a trial de novo pursuant to subsection (e) of section 52-549z may be
401 referred without the consent of the parties to a judge trial referee who
402 has been specifically designated to hear such proceedings pursuant to
403 subsection (b) of this section. The Superior Court may, with the
404 consent of the parties or their attorneys, refer any criminal case to a
405 judge trial referee who shall have and exercise the powers of the
406 Superior Court in respect to trial, judgment, sentencing and appeal in
407 the case, except that the Superior Court may, without the consent of
408 the parties or their attorneys, (A) refer any criminal case, other than a
409 criminal jury trial, to a judge trial referee assigned to a geographical
410 area criminal court session, and (B) refer any criminal case, other than
411 a class A or B felony or capital felony, to a judge trial referee to preside
412 over the jury selection process and any voir dire examination
413 conducted in such case, unless good cause is shown not to refer.

414 (2) Each judge of the Circuit Court who has ceased to hold office
415 because of retirement other than under the provisions of section 51-49
416 and who is an elector and a resident of this state shall be a state referee
417 for the remainder of such judge's term of office as a judge and shall be
418 eligible for appointment as a state referee during the remainder of such
419 judge's life in the manner prescribed by law for the appointment of a
420 judge of the court of which such judge is a member, subject to the
421 provisions of section 51-44a, as amended by this act, to whom the
422 Superior Court may, with the written consent of the parties or their
423 attorneys, refer any case pending in court in which the issues have
424 been closed and which the judges of the Superior Court may establish
425 by rule to be the kind of case which may be heard by such referees
426 who have been appointed judge trial referees pursuant to subsection
427 (b) of this section. The judge trial referee shall hear any such case so
428 referred and report the facts to the court by which the case was
429 referred.

430 (3) Each judge of the Juvenile Court who ceases or has ceased to
431 hold office because of retirement other than under the provisions of
432 section 51-49 and who is an elector and a resident of this state shall be
433 a state referee for the remainder of such judge's term of office as a
434 judge and shall be eligible for appointment as a state referee during the
435 remainder of such judge's life in the manner prescribed by law for the
436 appointment of a judge of the court of which such judge is a member,
437 subject to the provisions of section 51-44a, as amended by this act, to
438 whom a judge before whom any juvenile matter is pending may, with
439 the written consent of the child concerned, either of such child's
440 parents, or such child's guardian or attorney, refer any juvenile matter
441 pending, provided such referee has been appointed a judge trial
442 referee specifically designated to hear juvenile cases pursuant to
443 subsection (b) of this section. The judge trial referee shall hear any
444 matter so referred and report the facts to the court for the district from
445 which the matter was referred.

446 (4) In addition to the judge trial referees who are appointed
447 pursuant to subdivision (1), (2) or (3) of this subsection, the Chief

448 Justice may appoint, from qualified members of the bar of the state,
449 who are electors and residents of this state, as many state referees as
450 the Chief Justice may from time to time deem advisable or necessary.
451 No appointment of a member of the bar may be for a term of more
452 than three years. Notwithstanding the provisions of subsection (f) of
453 this section, state referees appointed by the Chief Justice from
454 members of the bar shall receive such reasonable compensation and
455 expenses as may be determined by the Chief Justice. The Superior
456 Court may appoint a state referee pursuant to this subdivision to take
457 such evidence as it directs in any civil [] nonjury case including, but
458 not limited to, appeals under section 8-8 of the 2008 supplement to the
459 general statutes. Any such state referee shall report on such evidence
460 to the court with any findings of fact. The report shall constitute a part
461 of the proceeding upon which the determination of the court shall be
462 made.

463 Sec. 5. Section 51-51k of the 2008 supplement to the general statutes
464 is repealed and the following is substituted in lieu thereof (*Effective*
465 *October 1, 2008*):

466 (a) There is hereby established a Judicial Review Council to be
467 composed of the following members: (1) Three judges of the Superior
468 Court, who are not also judges of the Supreme Court, who shall be
469 appointed by the Governor, from a list of six judges selected by the
470 members of the Superior Court, with the approval of the General
471 Assembly, (2) three attorneys-at-law admitted to practice in this state,
472 who shall be appointed by the Governor with the approval of the
473 General Assembly, (3) six persons who are not judges or attorneys-at-
474 law, who shall be appointed by the Governor with the approval of the
475 General Assembly, and (4) thirteen alternate members who shall be
476 appointed by the Governor with the approval of the General
477 Assembly, as follows: (A) Two judges of the Superior Court who are
478 not also judges of the Supreme Court, from a list of four judges
479 selected by the members of the Superior Court, (B) two attorneys-at-
480 law admitted to practice in this state, (C) three persons who are not
481 judges or attorneys-at-law, (D) three compensation commissioners,

482 and (E) three family support magistrates.

483 (b) An alternate member who is a judge, attorney-at-law or person
484 who is not a judge or attorney-at-law shall serve at probable cause
485 hearings and public hearings in lieu of a member who is a judge,
486 attorney-at-law or person who is not a judge or attorney-at-law,
487 respectively, when such member is absent or disqualified, as
488 designated by the executive director of the council. An alternate
489 member who is a compensation commissioner shall serve as a member
490 of the council in lieu of one of the members who is a judge of the
491 Superior Court, as designated by the executive director, when the
492 subject of a complaint or investigation is a compensation
493 commissioner. An alternate member who is a family support
494 magistrate shall serve as a member of the council in lieu of one of the
495 members who is a judge of the Superior Court, as designated by the
496 executive director, when the subject of a complaint or investigation is a
497 family support magistrate. An alternate member shall have the same
498 power as the member he or she is temporarily replacing during the
499 absence or disqualification of the member.

500 (c) On and after December 1, 1992, members shall be appointed in
501 accordance with subsection (a) of this section as follows: One judge
502 shall be appointed for a term of two years, one judge shall be
503 appointed for a term of three years and one judge shall be appointed
504 for a term of four years; one attorney shall be appointed for a term of
505 two years, one attorney shall be appointed for a term of three years
506 and one attorney shall be appointed for a term of four years; two lay
507 members shall be appointed for terms of two years, two lay members
508 shall be appointed for terms of three years, and two lay members shall
509 be appointed for terms of four years. Thereafter, members shall serve
510 for terms of four years. Members may continue in office until a
511 successor is appointed and qualified. No member appointed on or
512 after December 1, 1992, may serve consecutive terms, and if the
513 member is an attorney, no member of his or her firm may serve a term
514 consecutive to such member, provided no member may serve for more
515 than two terms. Vacancies on the council shall be filled for the

516 unexpired portion of any term in the same manner as the original
517 appointment. Any member who is a judge, family support magistrate
518 or compensation commissioner and retires from full-time active service
519 as a judge, family support magistrate or compensation commissioner
520 shall automatically cease to be a member of the council, and a vacancy
521 shall be deemed to occur. Alternate members shall be appointed for
522 terms of three years and shall not serve consecutive terms as alternate
523 members.

524 (d) No member of the council, except a judge, family support
525 magistrate or compensation commissioner, may hold any elected or
526 appointed position with compensation within the state or United
527 States, or be a selectman or chief executive officer of any municipality,
528 or a full or part-time employee of the Judicial Department or Workers'
529 Compensation Commission, or a member of a national or state central
530 committee, or a chairperson of any political party.

531 (e) (1) The Judicial Review Council shall employ an executive
532 director and such other staff as is necessary for the performance of its
533 functions and duties.

534 (2) The executive director may investigate any complaint filed
535 pursuant to section 51-51l, as amended by this act, and present
536 evidence obtained pursuant to any such investigation to the council.

537 (f) The Judicial Review Council shall develop a concise brochure
538 written in plain language to provide the public with information
539 concerning the purpose, authority, jurisdiction and process of the
540 Judicial Review Council. The council shall distribute the brochure to all
541 court administrative offices and to any person who files a complaint
542 pursuant to section 51-51l, as amended by this act.

543 (g) The Judicial Review Council shall establish and maintain an
544 Internet web site. The council shall post on the web site the address
545 and telephone number of the council's office, the electronic mail
546 address for the council and information concerning the purpose,
547 authority, jurisdiction and process of the council. Such information

548 shall include, but not be limited to, the procedure for filing a complaint
549 against a judge, compensation commissioner or family support
550 magistrate, a copy of the complaint form, the statutory grounds for the
551 censure, suspension or removal from office of a judge, compensation
552 commissioner or family support magistrate, the code of judicial
553 conduct or a link thereto, relevant statutory and regulatory provisions
554 or a link thereto, the process of investigating and disposing of
555 complaints and the dispositions available to the council.
556 Notwithstanding the availability of the complaint form on the web site,
557 no complaint may be filed electronically. The judicial branch web site
558 shall include a link to the Judicial Review Council web site under the
559 heading "Complaints against Judges".

560 (h) The council shall give notice of the time and place of its
561 meetings, and make the agendas for such meetings available to the
562 public, in accordance with the provisions of chapter 14, except that an
563 agenda made available to the public shall not contain any personally
564 identifiable information that might identify the respondent unless the
565 meeting takes place after the council has found that probable cause
566 exists that the respondent is guilty of conduct under section 51-51i. The
567 council shall post such notices and agendas on its Internet web site and
568 provide such notices and agendas to the cochairpersons of the joint
569 standing committee of the General Assembly having cognizance of
570 matters relating to the judiciary.

571 (i) Upon the request of any person subject to the provisions of this
572 chapter and the concurring vote of a majority of the members of the
573 council present and voting, the council shall issue advisory opinions
574 with regard to whether conduct contemplated by such person would
575 be conduct under section 51-51i that could subject such person to
576 admonishment, censure, suspension or removal from office under this
577 chapter. The council shall publish such advisory opinions in the
578 Connecticut Law Journal. Advisory opinions rendered by the council,
579 until amended or revoked, shall be binding on the council and shall be
580 deemed to be final decisions of the council for purposes of appeal to
581 the Supreme Court. The Supreme Court shall uphold the decision of

582 the council in issuing the advisory opinion unless it finds that the
583 decision was arbitrary, capricious or characterized by abuse of
584 discretion or clearly unwarranted exercise of discretion. Any advisory
585 opinion concerning any person subject to the provisions of this chapter
586 who requested the opinion and who acted in reliance thereon, in good
587 faith, shall be binding upon the council, and it shall be an absolute
588 defense in any proceeding brought under the provisions of this chapter
589 that the respondent acted in reliance upon such advisory opinion.

590 [(g)] (j) The Judicial Review Council shall submit to the Governor,
591 the Judicial Department, the joint standing committee of the General
592 Assembly having cognizance of matters relating to the Judicial Review
593 Council, and the judges of the Superior Court annually on or before
594 September first, a report of its activities for the previous fiscal year,
595 including the number of complaints received and the number of each
596 type of complaint disposition, including the number of dismissals, the
597 number of admonishments and the number of cases in which probable
598 cause was found.

599 [(h)] (k) The Commissioner of Public Works shall provide the
600 Judicial Review Council office space for the conduct of duties of the
601 council.

602 [(i)] (l) The Judicial Review Council shall adopt regulations, in
603 accordance with the provisions of chapter 54, to establish rules and
604 procedures for the council in the discharge of its duties under this
605 chapter and to provide standards for the identification of and
606 procedures for the treatment of conflicts of interest for council
607 members, which standards shall require that any professional or
608 ethical codes of conduct shall apply to any professional member of the
609 council subject to such codes of conduct.

610 Sec. 6. Section 51-51l of the general statutes is repealed and the
611 following is substituted in lieu thereof (*Effective October 1, 2008*):

612 (a) Except as provided in subsection (d) of this section, the Judicial
613 Review Council shall investigate every written complaint brought

614 before it alleging conduct under section 51-51i, and may initiate an
615 investigation of any judge, compensation commissioner or family
616 support magistrate if (1) the council has reason to believe conduct
617 under section 51-51i has occurred, or (2) previous complaints indicate a
618 pattern of behavior which would lead to a reasonable belief that
619 conduct under section 51-51i has occurred. The council shall, not later
620 than five days after such initiation of an investigation or receipt of such
621 complaint, notify by registered or certified mail any judge,
622 compensation commissioner or family support magistrate under
623 investigation or against whom such complaint is filed. A copy of any
624 such complaint shall accompany such notice. The council shall also
625 notify the complainant of its receipt of such complaint not later than
626 five days thereafter. Any investigation to determine whether or not
627 there is probable cause that conduct under section 51-51i has occurred
628 shall be confidential and any individual called by the council for the
629 purpose of providing information shall not disclose [his] such
630 individual's knowledge of such investigation to a third party prior to
631 the decision of the council on whether probable cause exists, unless the
632 respondent requests that such investigation and disclosure be open,
633 [provided] except that (A) information known or obtained
634 independently of any such investigation shall not be confidential, and
635 (B) the council may, upon request and after providing the judge,
636 compensation commissioner or family support magistrate who is the
637 subject of the complaint an opportunity to be heard, disclose that a
638 complaint has been filed if the council determines that (i) the essential
639 facts underlying the complaint have been widely made public, and (ii)
640 the public interest requires such disclosure. The judge, compensation
641 commissioner or family support magistrate shall have the right to
642 appear and be heard and to offer any information which may tend to
643 clear [him] such judge, compensation commissioner or family support
644 magistrate of probable cause to believe he or she is guilty of conduct
645 under section 51-51i. The judge, compensation commissioner or family
646 support magistrate shall also have the right to be represented by legal
647 counsel and examine and cross-examine witnesses. In conducting its
648 investigation under this subsection, the council may request that a

649 court furnish to the council a record or transcript of court proceedings
650 made or prepared by a court reporter, assistant court reporter or
651 monitor and the court shall, upon such request, furnish such record or
652 transcript.

653 (b) The Judicial Review Council shall, not later than three business
654 days after the termination of such investigation, notify the
655 complainant, if any, and the judge, compensation commissioner or
656 family support magistrate that the investigation has been terminated
657 and the results thereof. If the council finds that conduct under section
658 51-51i has not occurred, but the judge, compensation commissioner or
659 family support magistrate has acted in a manner which gives the
660 appearance of impropriety or constitutes an unfavorable judicial or
661 magisterial practice, the council may issue an admonishment to the
662 judge, compensation commissioner or family support magistrate
663 recommending a change in judicial or magisterial conduct or practice.
664 If an admonishment is issued, the council shall (1) notify the joint
665 standing committee of the General Assembly having cognizance of
666 matters relating to the judiciary that an admonishment was issued and
667 provide said committee with the substance of the admonishment,
668 including copies of the complaint file, and (2) inform the complainant,
669 if any, that an admonishment was issued if the admonishment is the
670 result of misconduct alleged in the complaint. [Except as provided in
671 subdivision (1) of this subsection, the] The substance of the
672 admonishment shall [not be disclosed to any person or organization]
673 be a matter of public record.

674 (c) If a preliminary investigation indicates that probable cause exists
675 that the judge, compensation commissioner or family support
676 magistrate is guilty of conduct under section 51-51i, the council shall
677 hold a hearing concerning the conduct or complaint. All hearings held
678 pursuant to this subsection shall be open. A judge, compensation
679 commissioner or family support magistrate appearing before such a
680 hearing shall be entitled to counsel, to present evidence and to cross-
681 examine witnesses. The council shall make a record of all proceedings
682 pursuant to this subsection. After all evidence and arguments have

683 been presented at such hearing, the council shall determine whether
684 the judge, compensation commissioner or family support magistrate is
685 guilty of conduct under section 51-51i. The council shall not later than
686 thirty days after the close of such hearing publish its findings together
687 with a memorandum of its reasons therefor. The entire record of the
688 proceedings pursuant to this subsection including any complaint,
689 transcripts and statements and other documents introduced into
690 evidence during such proceedings shall be open for public inspection,
691 except that any information that would be exempt from disclosure
692 under subsection (b) of section 1-210 of the 2008 supplement to the
693 general statutes shall be removed or redacted.

694 (d) No complaint against a judge, compensation commissioner or
695 family support magistrate alleging conduct under section 51-51i shall
696 be brought under this section but within one year from the date the
697 alleged conduct occurred or was discovered or in the exercise of
698 reasonable care should have been discovered, except that no such
699 complaint may be brought more than three years from the date the
700 alleged conduct occurred.

701 (e) Notwithstanding the provisions of subsections (a) and (b) of this
702 section, the council shall disclose any information concerning
703 complaints received by the council on and after January 1, 1978,
704 investigations, and disposition of such complaints to the legislative
705 program review and investigations committee when requested by the
706 committee in the course of its functions, in writing and upon a
707 majority vote of the committee, provided no names or other
708 identifying information shall be disclosed.

709 (f) On and after December 19, 1991, any judge, compensation
710 commissioner or family support magistrate who has been the subject
711 of an investigation by the Judicial Review Council as a result of a
712 complaint brought before [such] the council may request that such
713 complaint, investigation and the disposition of such complaint be open
714 to public inspection.

715 (g) Whenever a complaint against a judge, compensation

716 commissioner or family support magistrate is pending before the
717 Judicial Review Council within the final year of the term of office of
718 such judge, compensation commissioner or family support magistrate,
719 the Judicial Review Council shall designate such complaint as
720 privileged and shall conduct an expedited investigation and hearing so
721 that its duties with respect to such complaint are completed in
722 sufficient time to enable the Judicial Review Council to [make its
723 recommendation concerning any such judge to the Judicial Selection
724 Commission and] submit its report concerning such complaint to the
725 Governor, the Judicial Selection Commission and the joint standing
726 committee of the General Assembly having cognizance of matters
727 relating to the judiciary, as required under section 51-51q, as amended
728 by this act, in a timely manner.

729 Sec. 7. Subsection (a) of section 51-51m of the general statutes is
730 repealed and the following is substituted in lieu thereof (*Effective*
731 *October 1, 2008*):

732 (a) The Judicial Review Council may take any action upon a
733 majority vote of its members present and voting, except that twelve
734 members of the Judicial Review Council shall constitute a quorum for
735 any action to publicly censure a judge, compensation commissioner or
736 family support magistrate, suspend a judge, compensation
737 commissioner or family support magistrate for any period, refer the
738 matter to the Supreme Court with a recommendation that a judge or
739 family support magistrate be suspended for a period longer than one
740 year, [or] refer the matter to the Supreme Court with a
741 recommendation that a judge or family support magistrate be removed
742 from office or to the Governor with a recommendation that a
743 compensation commissioner be removed from office or impose a civil
744 penalty on a judge, compensation commissioner or family support
745 magistrate and the concurring vote of seven of such members shall be
746 required.

747 Sec. 8. Subsection (a) of section 51-51n of the general statutes is
748 repealed and the following is substituted in lieu thereof (*Effective*

749 October 1, 2008):

750 (a) The Judicial Review Council may, after a hearing pursuant to
751 subsection (c) of section 51-51l, as amended by this act, (1) publicly
752 censure the judge, compensation commissioner or family support
753 magistrate, (2) suspend the judge, compensation commissioner or
754 family support magistrate for a definite term not to exceed one year,
755 (3) refer the matter to the Supreme Court with a recommendation that
756 the judge or family support magistrate be suspended for a period
757 longer than one year, (4) refer the matter to the Supreme Court with a
758 recommendation that the judge or family support magistrate be
759 removed from office or to the Governor with a recommendation that
760 the compensation commissioner be removed from office, or (5)
761 exonerate the judge, compensation commissioner or family support
762 magistrate of all charges. In lieu of imposing a suspension under
763 subdivision (2) of this subsection, the council may impose a civil
764 penalty of not more than ten thousand dollars per violation.

765 Sec. 9. Section 51-51q of the general statutes is repealed and the
766 following is substituted in lieu thereof (*Effective October 1, 2008*):

767 (a) (1) [The] Whenever a judge is nominated for reappointment to
768 the same court or appointment to a different court, the Judicial Review
769 Council shall submit [its recommendations concerning the nomination
770 for appointment to a different court of any judge or nomination for
771 reappointment of any judge whose term of office is about to expire,
772 including] a report of any complaint filed against [any] such judge and
773 the disposition of any such complaint, [and] including any
774 investigation of any such judge by the council, to the Governor, to the
775 Judicial Selection Commission and to the joint standing committee of
776 the General Assembly having cognizance of matters relating to the
777 judiciary, provided the Judicial Selection Commission shall not
778 consider any investigation of the Judicial Review Council which
779 resulted in the exoneration of a judge.

780 (2) In addition to the information required to be submitted under
781 subdivision (1) of this subsection, the Judicial Review Council shall

782 make all complaint files concerning any such judge available to the
783 joint standing committee of the General Assembly having cognizance
784 of matters relating to the judiciary. Notwithstanding any provision of
785 the general statutes, if the disposition of a complaint filed against any
786 such judge involved the issuance of an admonishment to or the public
787 censure or suspension of such judge, (A) no information pertaining to
788 the complaint and the investigation and disposition of such complaint
789 may be removed, redacted or otherwise withheld by the Judicial
790 Review Council prior to making such complaint files available to said
791 committee as required by this subdivision, and (B) the Judicial Review
792 Council shall provide to said committee any information, including,
793 but not limited to, any confidential information, in its possession
794 concerning such judge that may be requested in writing by the
795 cochairpersons of said committee. Such information shall be provided
796 to said committee not later than three business days following the date
797 the request is received by the Judicial Review Council. Any
798 confidential information provided to said committee as required by
799 this subdivision shall not be further disclosed to any person or
800 organization.

801 [(3) If the Judicial Review Council has reason to believe any such
802 judge is guilty of conduct under section 51-51i, material neglect of duty
803 or incompetence in the conduct of his office, it may refuse to
804 recommend such judge for nomination for appointment to a different
805 court or for reappointment. The Judicial Review Council shall not
806 recommend a judge for nomination for appointment to a different
807 court or for reappointment if the council finds such judge has wilfully
808 violated section 51-39a or has been convicted of a felony or of a
809 misdemeanor involving moral turpitude.]

810 (b) The Judicial Review Council shall submit [its recommendations
811 concerning the reappointment of any family support magistrate whose
812 term of office is about to expire, including] a report of any complaint
813 filed against any family support magistrate whose term of office is
814 about to expire and the disposition of any such complaint, including
815 any investigation of any such magistrate by the council, to the

816 Governor.

817 (c) The Judicial Review Council shall submit [its recommendations
818 concerning the nomination for reappointment of any compensation
819 commissioner whose term of office is about to expire, including] a
820 report of any complaint filed against any compensation commissioner
821 whose term of office is about to expire and the disposition of such
822 complaint, including any investigation of such compensation
823 commissioner by the council, to the Governor and to the joint standing
824 committee of the General Assembly having cognizance of matters
825 relating to the judiciary. The Judicial Review Council shall provide
826 information to said committee concerning [any complaint filed against
827 such compensation commissioner and the investigation and
828 disposition of such complaint,] such complaint, disposition and
829 investigation including, but not limited to, confidential information, in
830 the same manner and subject to the same requirements as information
831 provided under subdivisions (1) and (2) of subsection (a) of this
832 section.

833 (d) If a complaint against any such judge, compensation
834 commissioner or family support magistrate is received by the Judicial
835 Review Council and the Judicial Review Council is unable to make its
836 findings and complete its duties with respect to such judge,
837 compensation commissioner or family support magistrate prior to the
838 expiration of the term of office of such judge, compensation
839 commissioner or family support magistrate, the Judicial Review
840 Council [shall not refuse to recommend such judge, compensation
841 commissioner or family support magistrate for reappointment based
842 on such complaint, but] shall report the fact of such complaint to the
843 Governor and to the joint standing committee of the General Assembly
844 having cognizance of matters relating to the judiciary.

845 Sec. 10. Section 51-51r of the general statutes is repealed and the
846 following is substituted in lieu thereof (*Effective October 1, 2008*):

847 Any judge or family support magistrate aggrieved by any decision
848 of the Judicial Review Council may appeal the decision to the Supreme

849 Court in accordance with such procedure for the appeal as the
850 Supreme Court shall adopt by rule. In reviewing the factual findings of
851 the council, the Supreme Court shall ascertain whether there was
852 substantial evidence to support those findings and in reviewing the
853 legal conclusions of the council, the Supreme Court shall conduct a de
854 novo review.

855 Sec. 11. Section 51-1b of the general statutes is repealed and the
856 following is substituted in lieu thereof (*Effective July 1, 2008*):

857 (a) The Chief Justice of the Supreme Court shall be the head of the
858 Judicial Department and shall be responsible for its administration.

859 (b) The Chief Justice shall appoint a Chief Court Administrator who
860 shall serve at the pleasure of the Chief Justice and for a term
861 coterminous with the term of the Chief Justice. If the Chief Court
862 Administrator is a judge of the Superior Court, Appellate Court or
863 Supreme Court, cessation of his or her service as Chief Court
864 Administrator shall not affect his or her term as judge of the Superior
865 Court, Appellate Court or Supreme Court.

866 Sec. 12. Section 45a-74 of the general statutes is repealed and the
867 following is substituted in lieu thereof (*Effective July 1, 2008*):

868 [(a) There shall be a Probate Court Administrator who shall be
869 appointed from among the judges of the several courts of probate by
870 the Chief Justice of the Supreme Court to serve at his pleasure. If the
871 Probate Court Administrator is unable by reason of sickness, absence
872 or other disability to perform the duties of his office, or if there is a
873 vacancy in the office of Probate Court Administrator, the Chief Justice
874 shall designate another judge of a court of probate to act in his stead
875 until he resumes his duties or until a new Probate Court Administrator
876 is appointed.]

877 (a) On and after the effective date of this section, whenever there is a
878 vacancy in the office of Probate Court Administrator, the Chief Justice
879 of the Supreme Court shall nominate for appointment by the General

880 Assembly a Probate Court Administrator. The nominee shall be a
881 judge of probate, a former judge of probate or an attorney having at
882 least eight years experience in probate law. The Probate Court
883 Administrator shall serve at the pleasure of the Chief Justice for a term
884 coterminous with the term of the Chief Justice and until a successor is
885 appointed and has qualified. If the Probate Court Administrator is a
886 judge of probate, cessation of his or her service as Probate Court
887 Administrator shall not affect his or her term as judge of probate.

888 (b) The Probate Court Administrator shall devote full time to the
889 duties of [his] the office except that he or she may serve as a judge of
890 probate but shall not engage in the private practice of law. Any
891 Probate Court Administrator who ceases to serve as a judge of probate
892 may continue to serve as Probate Court Administrator at the pleasure
893 of the Chief Justice.

894 (c) A nomination made by the Chief Justice to the General Assembly
895 for appointment of a Probate Court Administrator shall be referred,
896 without debate, to the committee on the judiciary, which shall report
897 thereon within thirty legislative days from the time of reference, but no
898 later than seven legislative days before the adjourning of the General
899 Assembly.

900 (d) No vacancy in the position of Probate Court Administrator shall
901 be filled by the Chief Justice when the General Assembly is not in
902 session unless, prior to such filling, the Chief Justice submits the name
903 of the proposed vacancy appointee to the committee on the judiciary.
904 Within forty-five days, the committee on the judiciary may, upon the
905 call of either chairperson, hold a special meeting for the purpose of
906 approving or disapproving such proposed vacancy appointee by
907 majority vote. The proposed vacancy appointee shall not begin service
908 as Probate Court Administrator until the committee has approved such
909 proposed vacancy appointee. If the committee determines that it
910 cannot complete its investigation and act on such proposed vacancy
911 appointee within such forty-five-day period, it may extend such period
912 by an additional fifteen days. The committee shall notify the Chief

913 Justice in writing of any such extension. Failure of the committee to act
914 on such proposed vacancy appointee within such forty-five-day period
915 or any fifteen-day extension period shall be deemed to be an approval.

916 Sec. 13. Subdivision (1) of section 1-200 of the general statutes is
917 repealed and the following is substituted in lieu thereof (*Effective July*
918 *1, 2008*):

919 (1) "Public agency" or "agency" means:

920 (A) Any executive, administrative or legislative office of the state or
921 any political subdivision of the state and any state or town agency, any
922 department, institution, bureau, board, commission, authority or
923 official of the state or of any city, town, borough, municipal
924 corporation, school district, regional district or other district or other
925 political subdivision of the state, including any committee of, or
926 created by, any such office, subdivision, agency, department,
927 institution, bureau, board, commission, authority or official, and also
928 includes any judicial office, official, or body or committee thereof but
929 only with respect to its or their administrative functions. With respect
930 to such judicial office, official, or body or committee thereof,
931 "administrative functions" means (i) all matters not directly related to
932 judicial decision-making in court cases, and (ii) those matters that
933 relate to the management of the internal institutional machinery of the
934 judicial branch including, but not limited to, budgeting, accounting,
935 rule-making, personnel, facilities, physical operations, docketing and
936 scheduling;

937 (B) Any person to the extent such person is deemed to be the
938 functional equivalent of a public agency pursuant to law; or

939 (C) Any "implementing agency", as defined in section 32-222.

940 Sec. 14. (NEW) (*Effective July 1, 2008*) (a) Whenever the Office of the
941 Chief Court Administrator receives a complaint concerning the
942 conduct of a judge, the Chief Court Administrator shall, in addition to
943 any administrative reasons for reviewing such complaint, review such

944 complaint to determine if there is reason to believe that the allegations
945 warrant further investigation by the Judicial Review Council. If the
946 Chief Court Administrator determines that such further investigation
947 is warranted, he or she shall refer such complaint to the Judicial
948 Review Council for investigation and action in accordance with
949 chapter 872a of the general statutes.

950 (b) If the Chief Court Administrator, in consultation with the Chief
951 Justice, determines that the complaint is (1) without merit, (2) properly
952 the subject of review through an existing adjudicatory procedure, or
953 (3) otherwise not within the purview of the Office of the Chief Court
954 Administrator, such complaint shall not be open to the public.

955 (c) If the Chief Court Administrator, in consultation with the Chief
956 Justice, determines that the complaint warrants administrative action,
957 but does not rise to the level that is appropriate for referral to the
958 Judicial Review Council, the Chief Court Administrator may issue an
959 admonishment in accordance with section 51-45a of the general
960 statutes.

961 Sec. 15. (NEW) (*Effective July 1, 2008*) The judicial branch shall make
962 the criminal docket of the Superior Court, including the docket
963 number, name of the defendant, year of birth of the defendant and
964 charge, available to the public on its Internet web site.

965 Sec. 16. (NEW) (*Effective October 1, 2008*) The judicial branch shall
966 make conviction information, as defined in section 54-142g of the
967 general statutes, available to the public on its Internet web site. Such
968 information shall include the docket number of the case, name of the
969 defendant, year of birth of the defendant, date of arrest, charges and
970 disposition including any fine, term of imprisonment and term of
971 probation imposed by the court, but shall not include the address or
972 motor vehicle operator license number of the defendant. Such
973 information shall be searchable by name of defendant, year of birth of
974 defendant and docket number. Conviction information with respect to
975 misdemeanors shall not be available to the public on the judicial
976 branch or other public agency web site after five years from the date of

977 the conviction.

978 Sec. 17. (NEW) (*Effective July 1, 2008*) Any police report used during
979 a court hearing as the basis for a judicial determination of probable
980 cause, whether or not probable cause has been found, shall be made
981 part of the court file and be open to the public unless the court, on
982 motion of any party or on its own motion, orders, for good cause
983 shown, all or a portion of the report to be sealed for a period of seven
984 days. If such motion is granted, the moving party may make a
985 recommendation not later than seven days after such order as to the
986 details of the sealing order, including the duration thereof. If no such
987 recommendation is made, the report shall be made public after said
988 seven-day period.

989 Sec. 18. Subsection (c) of section 19a-343a of the general statutes is
990 repealed and the following is substituted in lieu thereof (*Effective July*
991 *1, 2008*):

992 (c) If in the application, the state requests the issuance of a
993 temporary ex parte order for the abatement of a public nuisance, the
994 court [,] or, if the court is not in session, any judge of the Superior
995 Court, may grant a temporary ex parte order to abate the public
996 nuisance. The court or judge shall direct the state to give notice and
997 service of such documents, including a copy of the ex parte order, in
998 accordance with subsection (b) of this section. At such hearing, any
999 defendant may show cause why the abatement order shall be modified
1000 or vacated. No such ex parte order may be granted unless it appears
1001 from the specific facts shown by affidavit and by complaint that there
1002 is probable cause to believe that a public nuisance exists and the
1003 temporary relief requested is necessary to protect the public health,
1004 welfare or safety. Such show cause hearing shall be scheduled within
1005 five business days after service is effected by the state. [The affidavit
1006 may be ordered sealed by the court or judge upon a finding that the
1007 state's interest in nondisclosure substantially outweighs the
1008 defendant's right to disclosure.] A copy of the state's application and
1009 the temporary order to cease and desist shall be posted on any outside

1010 door to any building on the real property.

1011 Sec. 19. Section 51-164x of the general statutes is repealed and the
1012 following is substituted in lieu thereof (*Effective July 1, 2008*):

1013 (a) Any person affected by a court order which prohibits any person
1014 from attending any session of court, except any session of court
1015 conducted pursuant to section 46b-11, 46b-49, 46b-122 or 54-76h₂ [or
1016 any other provision of the general statutes under which the court is
1017 authorized to close proceedings, whether at a pretrial or trial stage,]
1018 shall have the right to the review of such order by the filing of a
1019 petition for review with the Appellate Court [within seventy-two
1020 hours from] not later than three business days after the issuance of
1021 such court order.

1022 (b) No order subject to review pursuant to subsection (a) of this
1023 section shall be effective until [seventy-two hours] the fourth business
1024 day after it has been issued, and the timely filing of any petition for
1025 review shall stay the order.

1026 (c) Any person affected by a court order that seals or limits the
1027 disclosure of any files, affidavits, documents or other material on file
1028 with the court or filed in connection with a court proceeding, except (1)
1029 any order issued pursuant to section 46b-11 or 54-33c₂ [or any other
1030 provision of the general statutes under which the court is authorized to
1031 seal or limit the disclosure of files, affidavits, documents or materials,
1032 whether at a pretrial or trial stage] as amended by this act, and (2) any
1033 order issued pursuant to a court rule that seals or limits the disclosure
1034 of any affidavit in support of an arrest warrant, shall have the right to
1035 the review of such order by the filing of a petition for review with the
1036 Appellate Court [within seventy-two hours from] not later than three
1037 business days after the issuance of such court order.

1038 (d) The Appellate Court shall provide an expedited hearing on such
1039 petitions filed pursuant to subsections (a) and (c) of this section in
1040 accordance with such rules as the judges of the Appellate Court may
1041 adopt, consistent with the rights of the petitioner and the parties to the

1042 case.

1043 Sec. 20. Section 4-173 of the general statutes is repealed and the
1044 following is substituted in lieu thereof (*Effective July 1, 2008*):

1045 (a) The Commission on Official Legal Publications shall publish and
1046 distribute a compilation of all effective regulations adopted by all state
1047 agencies subsequent to October 27, 1970, except regulations adopted
1048 pursuant to subsection (f) of section 4-168 of the 2008 supplement to
1049 the general statutes. Such publication may be a supplement to or
1050 revision of the most current compilation, and shall be published at
1051 least semiannually. The Commission on Official Legal Publications
1052 may omit from such compilation (1) any regulation that is
1053 incorporated by reference into a Connecticut regulation and published
1054 by or otherwise available in printed form from a federal agency, a
1055 government agency of another state or a commercial publishing
1056 company, (2) any regulation that is too expensive to publish, or (3) any
1057 regulation the publication of which would be unduly cumbersome. If
1058 the commission omits a regulation from the compilation, it shall
1059 publish in the compilation a notice identifying the omitted regulation,
1060 stating the general subject matter of the regulation and stating an
1061 address, telephone number and any other information needed to
1062 obtain a copy of the regulation. Such address and telephone number
1063 shall be kept current in each semiannual publication of the
1064 compilation. The commission shall publish any regulation that has
1065 been omitted from publication under subdivision (2) of this subsection
1066 as soon as the commission has sufficient funds.

1067 (b) The Commission on Official Legal Publications shall in addition
1068 cause to be published in the Connecticut Law Journal at least monthly
1069 the text of all regulations received by the commission from the office of
1070 the Secretary of the State pursuant to section 4-172 during the
1071 preceding month. The commission may omit from the Connecticut
1072 Law Journal (1) any regulation submitted in accordance with
1073 subsection (g) of section 4-168 of the 2008 supplement to the general
1074 statutes, for the purposes of renumbering sections only, if a correlated

1075 table of the former and new section numbers is published in lieu of the
1076 full text, (2) any regulation that is incorporated by reference into a
1077 Connecticut regulation and published by or otherwise available in
1078 printed form from a federal agency, a government agency of another
1079 state or a commercial publishing company, and (3) any regulation the
1080 publication of which would be too expensive or unduly cumbersome.
1081 If the commission omits a regulation from publication in the
1082 Connecticut Law Journal under subdivision (2) or (3) of this
1083 subsection, the commission shall publish in the Connecticut Law
1084 Journal a notice identifying the omitted regulation, stating the general
1085 subject matter of the regulation and stating an address, telephone
1086 number and any other information needed to obtain a copy of the
1087 regulation.

1088 (c) Each agency which adopts a regulation shall make the regulation
1089 available for inspection and copying at its main office.

1090 (d) Any publication made pursuant to subsections (a) and (b) of this
1091 section shall be made available upon request to agencies and officials
1092 of this state free of charge, and to other persons at prices fixed by the
1093 Commission on Official Legal Publications, in accordance with section
1094 51-216b.

1095 (e) The compilation of regulations published under subsection (a) of
1096 this section and all Connecticut regulations omitted from the
1097 compilation under subsection (a) shall be maintained in the reference
1098 collection of each law library described in section 11-19a.

1099 (f) The commission shall make the compilation of effective
1100 regulations published pursuant to subsection (a) of this section and the
1101 text of recently-filed regulations published pursuant to subsection (b)
1102 of this section available to the public through the Internet. The web
1103 sites of the executive, judicial and legislative branches shall contain a
1104 link to such compilation of effective regulations and text of recently-
1105 filed regulations.

1106 Sec. 21. Subsection (a) of section 53a-39a of the general statutes is

1107 repealed and the following is substituted in lieu thereof (*Effective*
1108 *October 1, 2008*):

1109 (a) In all cases where a defendant has been convicted of a
1110 misdemeanor or a felony, other than a capital felony, a class A felony
1111 or a violation of section 21a-278 of the 2008 supplement to the general
1112 statutes, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or
1113 any other offense for which there is a mandatory minimum sentence
1114 which may not be suspended or reduced by the court, after trial or by a
1115 plea of guilty without trial, and a term of imprisonment is part of a
1116 stated plea agreement or the statutory penalty provides for a term of
1117 imprisonment, the court may, in its discretion, order an assessment for
1118 placement in an alternate incarceration program under contract with
1119 the Judicial Department. If the Court Support Services Division
1120 recommends placement in an alternate incarceration program, it shall
1121 also submit to the court a proposed alternate incarceration plan. Upon
1122 completion of the assessment, the court shall determine whether such
1123 defendant shall be ordered to participate in such program as an
1124 alternative to incarceration. If the court determines that the defendant
1125 shall participate in such program, the court shall suspend any sentence
1126 of imprisonment and shall make participation in the alternate
1127 incarceration program a condition of probation as provided in section
1128 53a-30. If the court orders the defendant to participate in an alternate
1129 incarceration program pursuant to such alternate incarceration plan,
1130 such plan, or that portion of such plan ordered by the court, shall be a
1131 matter of public record.

1132 Sec. 22. Section 54-33c of the general statutes is repealed and the
1133 following is substituted in lieu thereof (*Effective October 1, 2008*):

1134 (a) The applicant for the search warrant shall file the application for
1135 the warrant and all affidavits upon which the warrant is based with
1136 the clerk of the court for the geographical area within which any
1137 person who may be arrested in connection with or subsequent to the
1138 execution of the search warrant would be presented with the return of
1139 the warrant. The warrant shall be executed within ten days and

1140 returned with reasonable promptness consistent with due process of
1141 law and shall be accompanied by a written inventory of all property
1142 seized. A copy of such warrant shall be given to the owner or occupant
1143 of the dwelling, structure, motor vehicle or place designated therein, or
1144 the person named therein. Within forty-eight hours of such search, a
1145 copy of the application for the warrant and a copy of all affidavits
1146 upon which the warrant is based shall be given to such owner,
1147 occupant or person. The judge or judge trial referee may, by order,
1148 dispense with the requirement of giving a copy of the affidavits to
1149 such owner, occupant or person at such time if the applicant for the
1150 warrant files a detailed affidavit with the judge or judge trial referee
1151 which demonstrates to the judge or judge trial referee that (1) the
1152 personal safety of a confidential informant would be jeopardized by
1153 the giving of a copy of the affidavits at such time, [or] (2) the search is
1154 part of a continuing investigation [which] that would be adversely
1155 affected by the giving of a copy of the affidavits at such time, or (3) the
1156 giving of such affidavits at such time would require disclosure of
1157 information or material prohibited from being disclosed by chapter
1158 959a. If the judge or judge trial referee dispenses with the requirement
1159 of giving a copy of the affidavits at such time, such order shall not
1160 affect the right of such owner, occupant or person to obtain such copy
1161 at any subsequent time. No such order shall limit the disclosure of
1162 such affidavits to the attorney for a person arrested in connection with
1163 or subsequent to the execution of a search warrant unless, upon
1164 motion of the prosecuting authority within two weeks of such person's
1165 arraignment, the court finds that the state's interest in continuing
1166 nondisclosure substantially outweighs the defendant's right to
1167 disclosure.

1168 (b) Any order dispensing with the requirement of giving a copy of
1169 the warrant application and accompanying affidavits to such owner,
1170 occupant or person within forty-eight hours shall be for a specific
1171 period of time, not to exceed two weeks beyond the date the warrant is
1172 executed. Within that time period the prosecuting authority may seek
1173 an extension of such period. Upon the execution and return of the
1174 warrant, affidavits which have been the subject of such an order shall

1175 remain in the custody of the clerk's office in a secure location apart
1176 from the remainder of the court file.

1177 (c) Any request by the prosecuting authority, made subsequent to
1178 an arrest, to extend an order sealing an affidavit in support of a search
1179 warrant as to such owner, occupant or person shall be a matter of
1180 public record. An extension of the order shall be granted if the court
1181 finds that the order is necessary to preserve an interest that is
1182 determined to override the public's interest in viewing the affidavit, or
1183 for good cause shown. An oral representation by the prosecuting
1184 authority that (1) the personal safety of a confidential informant would
1185 be jeopardized, (2) the search is part of a continuing investigation that
1186 would be adversely affected, or (3) the unsealing of the affidavit would
1187 require disclosure of information or material prohibited from being
1188 disclosed by chapter 959a may be sufficient to establish good cause.
1189 Any such extension shall be to a date certain, not to exceed ninety days
1190 from the date of the request. The prosecuting authority may seek more
1191 than one such extension, but no single extension shall exceed ninety
1192 days.

1193 Sec. 23. Subsection (d) of section 54-56d of the 2008 supplement to
1194 the general statutes is repealed and the following is substituted in lieu
1195 thereof (*Effective October 1, 2008*):

1196 (d) If the court finds that the request for an examination is justified
1197 and that, in accordance with procedures established by the judges of
1198 the Superior Court, there is probable cause to believe that the
1199 defendant has committed the crime for which the defendant is
1200 charged, the court shall order an examination of the defendant as to his
1201 or her competency. The court may (1) appoint one or more physicians
1202 specializing in psychiatry to examine the defendant, or (2) order the
1203 Commissioner of Mental Health and Addiction Services to conduct the
1204 examination either (A) by a clinical team consisting of a physician
1205 specializing in psychiatry, a clinical psychologist and one of the
1206 following: A clinical social worker licensed pursuant to chapter 383b or
1207 a psychiatric nurse clinical specialist holding a master's degree in

1208 nursing, or (B) by one or more physicians specializing in psychiatry,
1209 except that no employee of the Department of Mental Health and
1210 Addiction Services who has served as a member of a clinical team in
1211 the course of such employment for at least five years prior to October
1212 1, 1995, shall be precluded from being appointed as a member of a
1213 clinical team. If the Commissioner of Mental Health and Addiction
1214 Services is ordered to conduct the examination, the commissioner shall
1215 select the members of the clinical team or the physician or physicians.
1216 If the examiners determine that the defendant is not competent, the
1217 examiners shall then determine whether there is a substantial
1218 probability that the defendant, if provided with a course of treatment,
1219 will regain competency within the maximum period of any placement
1220 order under this section. If the examiners determine that there is a
1221 substantial probability that the defendant, if provided with a course of
1222 treatment, will regain competency within the maximum period of any
1223 placement order under this section, the examiners shall then determine
1224 whether the defendant appears to be eligible for civil commitment,
1225 with monitoring by the Court Support Services Division, pursuant to
1226 subdivision (2) of subsection (h) of this section. If the examiners
1227 determine that there is not a substantial probability that the defendant,
1228 if provided with a course of treatment, will regain competency within
1229 the maximum period of any placement order under this section, the
1230 examiners shall then determine whether the defendant appears to be
1231 eligible for civil commitment to a hospital for psychiatric disabilities
1232 pursuant to subsection (m) of this section and make a recommendation
1233 to the court regarding the appropriateness of such civil commitment.
1234 The court may authorize a physician specializing in psychiatry, a
1235 clinical psychologist, a clinical social worker licensed pursuant to
1236 chapter 383b or a psychiatric nurse clinical specialist holding a master's
1237 degree in nursing selected by the defendant to observe the
1238 examination. Counsel for the defendant may observe the examination.
1239 The examination shall be completed within fifteen days from the date
1240 it was ordered and the examiners shall prepare and sign, without
1241 notarization, a written report and file such report with the court within
1242 twenty-one business days of the date of the order. On receipt of the

1243 written report, the clerk of the court shall cause copies to be delivered
 1244 immediately to the state's attorney and to counsel for the defendant.
 1245 The written report shall be sealed, but only as to the public, and the
 1246 contents of the report shall not be disclosed, except during any
 1247 evidentiary hearing as to the competency of the defendant at which
 1248 such contents are relied upon by a participant as the basis for
 1249 testimony, questioning of witnesses, arguments to the court or judicial
 1250 findings or as otherwise authorized under section 52-146f.

1251 Sec. 24. Subsection (f) of section 54-56d of the 2008 supplement to
 1252 the general statutes is repealed and the following is substituted in lieu
 1253 thereof (*Effective October 1, 2008*):

1254 (f) If the court, after the evidentiary hearing, finds that the
 1255 defendant is competent, the court shall continue with the criminal
 1256 proceedings. If the court finds that the defendant is not competent, the
 1257 court shall also find whether there is a substantial probability that the
 1258 defendant, if provided with a course of treatment, will regain
 1259 competency within the maximum period of any placement order
 1260 permitted under this section. The court shall state on the record the
 1261 reasons for the court's finding that the defendant is competent or not
 1262 competent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	51-14
Sec. 2	<i>October 1, 2008</i>	51-44a
Sec. 3	<i>October 1, 2008</i>	51-50l(a)
Sec. 4	<i>October 1, 2008</i>	52-434(a)
Sec. 5	<i>October 1, 2008</i>	51-51k
Sec. 6	<i>October 1, 2008</i>	51-51l
Sec. 7	<i>October 1, 2008</i>	51-51m(a)
Sec. 8	<i>October 1, 2008</i>	51-51n(a)
Sec. 9	<i>October 1, 2008</i>	51-51q
Sec. 10	<i>October 1, 2008</i>	51-51r
Sec. 11	<i>July 1, 2008</i>	51-1b
Sec. 12	<i>July 1, 2008</i>	45a-74

Sec. 13	<i>July 1, 2008</i>	1-200(1)
Sec. 14	<i>July 1, 2008</i>	New section
Sec. 15	<i>July 1, 2008</i>	New section
Sec. 16	<i>October 1, 2008</i>	New section
Sec. 17	<i>July 1, 2008</i>	New section
Sec. 18	<i>July 1, 2008</i>	19a-343a(c)
Sec. 19	<i>July 1, 2008</i>	51-164x
Sec. 20	<i>July 1, 2008</i>	4-173
Sec. 21	<i>October 1, 2008</i>	53a-39a(a)
Sec. 22	<i>October 1, 2008</i>	54-33c
Sec. 23	<i>October 1, 2008</i>	54-56d(d)
Sec. 24	<i>October 1, 2008</i>	54-56d(f)

Statement of Legislative Commissioners:

Provisions of section 13 were rewritten and inserted in section 1-200(1) of the general statutes for clarity.

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Legislative Mgmt.	GF - Potential Cost	Minimal	Minimal
Judicial Selection Com.	GF - Cost	Less than 7,000	Less than 4,000
Judicial Rev. Council	GF - Cost	Less than 10,000	Less than 7,000
Judicial Rev. Council	GF - Potential Revenue Gain	Less than 50,000	Less than 50,000
Judicial Dept.	GF - Cost	Less than 100,000	Less than 20,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The provisions of the bill with fiscal impact are described below.

Section 1 requires the Judicial Department to forward to the Judiciary Committee any proposed rule changes. Within ninety days of receiving any proposed rule changes, the Judiciary Committee may meet to review the proposed rules.

To convene a committee meeting during legislative session will result in no fiscal impact. If not in session, holding a committee meeting will result in minor costs to Legislative Management for legislator mileage reimbursements (currently 50.5 cents per mile).

Section 2 requires the Judicial Selection Commission to evaluate incumbent state referees who seek reappointment. This could increase the number of meetings that the Commission holds and result in an annual cost that is estimated to be less than \$2,000 to cover expenses. This section also requires the Commission to establish and maintain a

web site. It would cost the agency roughly \$5,000 to establish a (relatively rudimentary) web site and less than \$2,000 annually for maintenance.

Section 5 requires the Judicial Review Council to establish and maintain a web site, which would result in a one-time cost of less than \$5,000 and annual costs of less than \$2,000 thereafter. **Section 5** also authorizes the Council to render advisory opinions and requires the agency to publish these opinions in the Connecticut Law Journal. Potential expenditures to carry out this function are estimated to be less than \$5,000 annually.

Section 7 permits the Judicial Review Council to impose civil penalties of up to \$10,000 for violations. There is a potential, minimal revenue gain.

Section 12 requires the Chief Justice of the Supreme Court to nominate a Probate Court Administrator. Such nomination shall be referred to the Judiciary Committee. It is anticipated that these processes would occur infrequently. To convene a committee meeting during legislative session will result in no fiscal impact. If not in session, holding a committee meeting will result in minor costs to Legislative Management for legislator mileage reimbursements (currently 50.5 cents per mile).

Sections 15-16 require the Judicial Department to make the criminal docket of the Superior Court and conviction information available to the public on its Internet web site. Access to the daily criminal docket is currently available on the Judicial Department's web site. The Judicial Department would likely incur a cost of less than \$50,000 to initiate posting of conviction information, as well. Once established, the Department would be able to maintain and provide this Internet service at an estimated cost of less than \$10,000 annually.

Section 20 requires the Commission on Official Legal Publications to make available through the Internet a compilation of effective regulations. A one-time cost of less than \$50,000 would be incurred to

initiate this web site and less than \$10,000 annually to maintain it.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 605*****AN ACT CONCERNING JUDICIAL BRANCH OPENNESS.*****SUMMARY:**

This bill requires the Judicial Selection Commission to (1) evaluate incumbent state referees seeking reappointment in the same general way that they evaluate judges seeking reappointment, (2) establish an Internet website, and (3) comply with the Freedom of Information Act's (FOIA) provisions on meeting notices and agenda availability.

The bill makes a number of changes to the procedures of the Judicial Review Council (JRC). These include (1) opening to the public records from a JRC hearing held after finding probable cause that a judge, compensation commissioner, or family support magistrate committed a violation; (2) authorizing the JRC to issue advisory opinions; (3) requiring it to comply with FOIA's provisions on meeting notices and agenda availability; (4) authorizing a civil penalty as discipline for a judge, compensation commissioner, or family support magistrate; and (5) eliminating the requirement that the JRC submit recommendations about judges who are reappointed or nominated to a different court and compensation commissioners and family support magistrates who are reappointed.

The bill changes the procedures that judges must follow to adopt and modify court rules. It establishes a procedure of submitting proposals to the Judiciary Committee for comment and, after adoption by the judges, they are again submitted to the committee for an opportunity to express any concerns. The bill establishes when a rule can take effect.

Rather than appointing someone as probate court administrator, the bill requires the chief justice to submit a nominee to the General

Assembly for approval.

It defines “administrative functions” as used in FOIA to identify Judicial Branch records and meetings subject to the act. It makes a number of changes to court practices, primarily opening court records and proceedings to the public.

The bill requires the Commission on Official Legal Publications to make state agency regulations available to the public through the Internet.

It also makes a number of other changes. Among these, it (1) requires the Judicial Branch to post more conviction information on its website, (2) makes public certain alternative incarceration assessments and requests by prosecutors to seal an affidavit in support of a search warrant, and (3) sets circumstances where a competency evaluation can be disclosed.

EFFECTIVE DATE: July 1, 2008, except that the provisions on (1) the Judicial Selection Commission and JRC, (2) conviction information on the Judicial Branch website, (3) alternative incarceration assessments, (4) search warrant affidavits, and (5) competency evaluations, are effective on October 1, 2008.

§ 1 — JUDICIAL BRANCH RULES

The bill requires judges to adopt and promulgate rules of evidence and permits them to modify or repeal the rules for the same purposes and with the same provisions as they do rules regulating pleadings, practice, and procedure.

The bill changes the procedures the judges must follow to adopt and modify court rules. It requires the chairperson of the Superior Court or Appellate Court rules committee to forward any proposals for new rules or modifications to the Judiciary Committee for review and comment. Within 30 days of receiving the proposal, the committee can forward any comments to the rules committee’s chairperson. The chairperson must distribute the comments to the

judges of the Superior, Appellate, or Supreme Court, as appropriate, at the next judges' meeting held to adopt proposals.

The bill provides that the judges cannot hold a meeting to adopt a proposal until at least 30 days have passed since the proposal was sent to the Judiciary Committee. The appropriate rules committee chairperson must send any proposal adopted by the judges to the Judiciary Committee.

Rules and modifications cannot become effective until 90 days have passed since the rule was sent to the Judiciary Committee. Within the 90 days, the Judiciary Committee can meet to review the new or changed rule and can vote to inform the judges in writing of any concerns it has and if the judges do not revise the new or changed rule, it cannot take effect until the end of the General Assembly's next regular session. If the committee informs the judges of its concerns, the following procedure applies:

1. if the judges meet and reconsider the new or changed rule within 90 days and they make no revisions, the judges must report this to the Judiciary Committee and the rule or change cannot take effect until the end of the General Assembly's next regular session;
2. if the judges reconsider and make revisions, they must forward the revised rule to the Judiciary Committee and (a) the revised rule cannot become effective until at least 30 days after it is forwarded to the Judiciary Committee or (b) if the Judiciary Committee meets and votes within the 30 days to inform the judges whether it has concerns, the revised rule cannot become effective until the end of the General Assembly's next regular session.

The bill's provisions do not apply to a new rule or a change when the judges determine that extraordinary circumstances require immediate action. Such a rule or change takes effect on the date specified by the judges and is effective for as long as specified but not

more than one year from its adoption unless it is sent to the Judiciary Committee in compliance with the bill's provisions.

By law, Supreme Court justices and Appellate and Superior court judges can adopt rules regulating judicial proceedings in their respective courts that simplify proceedings and promote speedy and efficient decisions. The rules cannot abridge, enlarge, or modify any substantive right or the court's jurisdiction. Appellate Court rules must be as consistent as feasible with Supreme Court rules to promote uniformity in appeal procedures.

Under current law, with one exception, court rules are currently effective, without outside approval, on the dates judges specify but no sooner than 60 days after promulgation. Court rules that modify, supersede, or suspend statutory rules on pleadings, practice, and procedures in existence on July 1, 1957 are referred to the legislature for approval.

§§ 2-4 — JUDICIAL SELECTION COMMISSION

Evaluation of State Referees

The bill requires the Judicial Selection Commission to evaluate incumbent state referees seeking reappointment and forward the names of those it recommends to the governor (see BACKGROUND). The commission must establish its evaluation criteria in regulations.

The procedure the bill requires for evaluating state referees is very similar to the one the commission follows to evaluate judges seeking reappointment to the same court. The commission must:

1. consider each referee's legal ability, competence, integrity, character, temperament, and any other relevant information;
2. apply a rebuttable presumption that a referee is qualified for reappointment;
3. investigate and interview each referee;
4. hold a hearing if a preliminary examination indicates further

inquiry is necessary;

5. subpoena witnesses if relevant to the inquiry;
6. notify the referee of the date, time, and place of any commission hearing to consider his or her reappointment and of any claims against him or her;
7. vote, by a majority plus one, to deny recommendation of a referee for reappointment; and
8. submit any recommendation to the governor.

The governor may not nominate an incumbent state referee denied a recommendation by the commission.

Votes on Judges and State Referees

Under current law, the commission's vote on an incumbent judge may be by secret ballot. The bill makes open to the public the total affirmative or negative votes to recommend reappointment of an incumbent judge to the same court or appointment to a different court or to recommend reappointment of an incumbent state referee.

Reports to the Judiciary Committee

By law, the commission submits an annual report to the Judiciary Committee on the number of judicial candidates interviewed and recommended for nomination, broken down by race, gender, national origin, religion, and years of experience. The bill requires the commission to include the same information on incumbent state referees in the report.

List of Judicial Candidates

By law, the commission must compile a list of qualified attorneys seeking judicial appointments and judges seeking appointments to different courts. The bill requires the commission to keep the list confidential, except that the names of qualified candidates for associate judge and chief justice of the state Supreme Court must be publicly available.

Website

The bill requires the commission to establish and maintain an Internet website. The commission must post on the site its office address, telephone number, e-mail address, duties, and procedures, including the procedure for filing an application to become a judge, and a copy of the application form.

Records and Meetings

Under the bill, the commission must file notice of its regular meetings and make agendas available in compliance with FOIA (see BACKGROUND). Additionally, the commission must post meeting notices and agendas on its website and provide them to the Judiciary Committee chairmen. The commission must redact from its public agendas any information that might personally identify candidates, incumbent judges seeking appointment to the same or a different court, or incumbent state referees seeking reappointment.

§§ 5-10 — JUDICIAL REVIEW COUNCIL

By law, the JRC investigates complaints against judges, compensation commissioners, and family support magistrates. If it finds probable cause that such an official violated certain standards of conduct, it holds a hearing. If the JRC finds the official guilty of the conduct, it can impose discipline.

Website

The bill requires the JRC to create and maintain a website. The site must include:

1. its address, phone number, and e-mail address;
2. information on the JRC's purpose, authority, jurisdiction, and procedures;
3. procedures for filing complaints against judges, compensation commissioners, and family support magistrates;
4. a copy of a complaint form;

5. statutory grounds for censure, suspension, or removal of judges, compensation commissioner, and family support magistrates;
6. the code of judicial conduct (or a link to it);
7. relevant statutory and regulatory provisions (or a link to them); and
8. procedures for investigating and disposing of complaints and the dispositions available to the JRC.

The bill prohibits filing complaints electronically.

The bill requires the Judicial Branch's website to link to the JRC website under the heading "Complaints against Judges."

Notice of Meetings

The bill requires the JRC to provide notice of its meetings and make agendas available to the public as required by FOIA (see BACKGROUND). It provides that a public agenda cannot contain personally identifiable information that might identify the subject of a complaint unless the JRC has already found probable cause that the person engaged in conduct that could be grounds for removal, suspension, or censure. (By law, investigations by the JRC are confidential until it finds probable cause.)

The bill requires the JRC to post notices and agendas on its website and give copies to the Judiciary Committee chairmen.

Advisory Opinions

The bill authorizes the JRC to issue advisory opinions about whether contemplated conduct would subject a judge, compensation commissioner, or family support magistrate to discipline. To issue an advisory opinion (1) a judge, compensation commissioner, or family support magistrate must request it and (2) a majority of the JRC members present must vote for it.

The bill requires the council to publish advisory opinions in the

Connecticut Law Journal. The bill makes the opinions binding on the JRC unless amended or revoked. They are considered final decisions and appealable to the Supreme Court. In reviewing an opinion, the bill requires the Supreme Court to uphold it unless the decision was arbitrary, capricious, an abuse of discretion, or a clearly unwarranted exercise of discretion.

Under the bill, an advisory opinion is binding on the JRC regarding the person who requests it and relies on it in good faith. It also makes it an absolute defense in JRC proceedings that the person who requested it relied on it.

Disclosure of Complaint

Under current law, an investigation to determine whether there is probable cause for a violation is confidential and any individual who provides information to the JRC cannot disclose knowledge of the investigation to others until the JRC makes a decision that there is probable cause. But the person who is the subject of the investigation may request that the investigation be open, and information known independently is not confidential. The bill allows the council, on request and after giving the subject of the complaint the opportunity to be heard, to disclose that a complaint has been filed if (1) the essential underlying facts have been widely made public and (2) public interest requires disclosure.

Admonishment

The law allows the JRC to admonish a judge, compensation commissioner, or family support magistrate if the conduct at issue was not a violation of the standards of conduct that subjects the person to removal, suspension, or censure, but gives the appearance of impropriety or is an unfavorable judicial practice. Current law prohibits disclosing the admonishment except that the JRC must notify (1) the person who filed a complaint, if the admonishment is based on one, and (2) the Judiciary Committee and provide it with details on the admonishment. The bill makes the admonishment a public record.

Hearings

The law requires the JRC to hold a hearing and publish its findings after it finds probable cause. The bill specifies that the council must determine whether the individual is guilty of violating the standards of conduct after all evidence and arguments are presented at the hearing.

By law, all hearings are open. The bill makes the entire record of the proceedings open to public inspection, including any complaint, transcripts, statements, and documents introduced into evidence during the proceedings. But information exempt from disclosure under FOIA must be removed or redacted.

Expedited Investigations and Hearings

The law requires the JRC to conduct an expedited investigation and hearing when a complaint is pending within the final year of a judge's, compensation commissioner's, or family support magistrate's term. Under current law, the JRC must do so to complete its duties within sufficient time to make its recommendation to the Judicial Selection Commission or governor, whichever is required. The bill instead requires the JRC to finish with sufficient time to submit its report about the complaint to the governor, Judicial Selection Commission, and Judiciary Committee.

Discipline

The law allows the JRC to publicly censure a judge, compensation commissioner, or family support magistrate; suspend a judge, compensation commissioner, or family support magistrate for up to one year; refer a judge or magistrate to the Supreme Court recommending a suspension of more than one year or removal; and refer a compensation commissioner to the governor recommending removal.

The bill also gives the JRC the option of imposing a civil penalty of up to \$10,000 per violation, in place of suspending a judge, compensation commissioner, or family support magistrate for up to

one year.

Recommendations

The bill eliminates requirements that the JRC submit recommendations about judges who are reappointed or nominated to a different court and compensation commissioners and family support magistrates who are reappointed.

Regarding judges, the bill eliminates the required recommendations to the governor, Judicial Selection Commission, and Judiciary Committee, and provisions on when the JRC may and must refuse to recommend a judge. Just as it can under current law, the JRC must report on any complaint filed about the judge, dispositions of complaints, and any investigations.

Regarding family support magistrates, the bill still requires the JRC to report on any investigation of the magistrate and adds that it must report on any complaints filed against the magistrate and their dispositions.

Regarding compensation commissioners, the bill eliminates the required recommendation to the governor and Judiciary Committee. But it still requires the JRC to report on any investigations and also requires a report of any complaints filed and their dispositions.

Appeals

By law, a judge or family support magistrate aggrieved by a decision of the JRC can appeal it to the Supreme Court. The bill requires the court to conduct a new review of the JRC's legal conclusions and, when reviewing its factual findings, to determine whether there was substantial evidence to support those findings.

§ 11 — APPOINTING THE CHIEF COURT ADMINISTRATOR

Under current law, the Supreme Court chief justice appoints a chief court administrator who serves at the chief justice's pleasure. The bill provides that the chief court administrator's term is also coterminous with the chief justice's but, if the chief court administrator is also a

judge, ending the term as administrator does not affect his or her term as a judge. By law, the chief justice serves an eight-year term.

§ 12 — APPOINTING THE PROBATE COURT ADMINISTRATOR

Starting July 1, 2008, the bill requires the chief justice to fill a vacancy in the office of probate court administrator by nominating someone for appointment by the General Assembly. Under current law, the chief justice appoints the probate court administrator without legislative approval. Current law requires the probate court administrator to be a probate judge. The bill also allows a nominee to be a former probate judge or an attorney with at least eight years of probate law experience.

The bill sets the administrator's term as coterminous with the chief justice's and until a successor is appointed and qualified. By law, the chief justice serves an eight-year term. As under current law, the administrator serves at the pleasure of the chief justice.

The bill specifies that if the probate court administrator is a probate judge, the fact that a term as administrator ends does not affect his or her term as a probate judge.

Judiciary Committee Process

When the General Assembly is in session, the bill requires the administrator's nomination to be referred to the Judiciary Committee, which must report on it within 30 legislative days, but no later than seven legislative days before the General Assembly adjourns.

When the General Assembly is not in session, the chief justice submits the appointment to the Judiciary Committee which can, within 45 days on the call of either chairman, hold a special meeting to approve or disapprove the appointee by majority vote. If the committee cannot complete its investigation and act within 45 days, it can extend the period by 15 days on written notice to the chief justice. An appointee cannot serve as administrator until the committee approves the appointment. If the committee does not act during the required period, the appointment is considered approved.

§§ 13-19, 21-24 — JUDICIAL OPENNESS**§ 13 — Administrative Function**

By law, FOIA applies to the Judicial Branch, but only with respect to its administrative functions. However, “administrative functions” are not currently defined in statute (see BACKGROUND).

The bill defines “administrative functions” as (1) all matters not directly related to judicial decision-making in court cases and (2) those matters relating to the management of the internal institutional machinery of the Judicial Branch, including budgeting, accounting, rulemaking, personnel, facilities, physical operations, docketing, and scheduling.

§ 14 — Complaints Regarding Judicial Conduct

The bill requires the chief court administrator to review any complaint of judicial misconduct that he or she receives to determine if it warrants a referral to JRC for further investigation. If so, the administrator must refer the complaint. By law, council investigations are confidential; however, if it finds probable cause that a judge’s behavior subjects him or her to removal, suspension, or censure, any further hearings are open to the public. A finding that a judge acted in a manner that gives the appearance of impropriety may result in an admonishment of which the council notifies the Judiciary Committee but does not otherwise disclose.

Under the bill, if the chief court administrator, in consultation with the chief justice, determines that the complaint is (1) without merit, (2) properly the subject of review through an existing adjudicatory procedure, or (3) otherwise not within the purview of the Office of the Chief Court Administrator, the complaint cannot be publicly disclosed. If, however, they determine that the complaint warrants administrative action, but not a referral to the Judicial Review Council, the chief court administrator may admonish the judge by recommending a change in conduct or practice, as appropriate. The admonishment must be a part of the judge’s performance evaluation, which is not publicly disclosed. However, the bill makes

admonishments public records.

§§ 15-16 — Criminal Information Available on the Internet

The bill requires the Judicial Branch to make conviction information and the Superior Court's criminal docket available to the public on its Internet website. This information is currently available to the public and the Judicial Branch currently posts docket information on its website.

The law defines "conviction information" as court records and other criminal history information used to identify criminal offenders that have not been erased. The bill requires the branch to include this information on its website and specifically requires case docket numbers and each defendant's name and birth year, arrest date, charges, and disposition, including any fine and term in prison and on probation. The website cannot include the defendant's address or driver's license number. The information must be searchable by defendant's name, birth year, and docket number. Conviction information relating to misdemeanors must be removed from the Judicial Branch and all public agencies' websites five years after the conviction date.

The posted docket information must include the docket number and charge and the defendant's name and birth year.

§ 17 — Police Reports

The bill requires that a police report become part of the court file and open to the public if it is used during a court hearing to determine probable cause. But the bill authorizes the court to order all or a portion of the report sealed for up to seven days for good cause. The requirement applies regardless of whether probable cause is found.

If the court grants a motion to seal the report, the party that requested the report to be sealed may make a recommendation, within seven days, about the details of the sealing order including its duration. If no recommendation is made, the report is public after seven days.

§ 18 — Nuisance Abatement

By law, the state can bring an action to abate a public nuisance. The court may grant a temporary ex parte order to abate the nuisance if the state asks for it. The court must direct the state to notify the defendant and provide him with a copy of the order. At a court hearing, a defendant may show why the abatement order should be modified or vacated. An ex parte order may be granted only if it appears from the specific facts shown by affidavit and complaint that there is probable cause to believe that a public nuisance exists and the temporary relief requested is necessary to protect public health, welfare, or safety. The show cause hearing must be scheduled within five business days after service of the order.

The bill eliminates the court's discretion to seal the affidavit upon a finding that the state's interest in non-disclosure substantially outweighs the defendant's right to disclosure.

§ 19 — Access to Court Proceedings and Records

The bill extends, from 72 hours to three business days, the deadline for anyone to appeal a court order (1) banning them from a court session or (2) sealing or limiting the disclosure of any files, affidavits, documents, or other material on file with the court or filed in connection with a court proceeding. The extension, like the underlying law, does not apply to juvenile delinquency or youthful offender proceedings or records.

The bill extends the right to appeal to people banned from any other session or prohibited from accessing any other records that the court may lawfully prohibit people from attending or accessing, respectively.

§ 21 — Alternate Incarceration Program Assessments

By law, courts may order defendants convicted of certain felonies and any misdemeanor to participate in an alternative incarceration program instead of going to prison. If the court decides to consider the program for a defendant, it first must order the Judicial Branch's Court

Support Services Division to assess the desirability of the placement. If the division recommends placement, it must submit a proposed alternative incarceration plan to the court.

The bill makes the plan or the portion of it that the court ordered a public record if the court orders participation in an alternate incarceration program based on the plan.

§ 22 — Order Sealing an Affidavit in Support of a Search Warrant

The bill makes public any request a prosecutor makes after an arrest to extend an order sealing an affidavit in support of a search warrant as to an owner, occupant, or person. It requires the court to extend the order if it finds that the order is necessary to preserve an interest that is determined to override the public's interest in viewing the affidavit, or for good cause shown.

The bill specifies that an oral representation by the prosecuting authority may be sufficient to establish good cause if (1) the personal safety of a confidential informant would be jeopardized, (2) the search is part of a continuing investigation that would be adversely affected, or (3) the unsealing of the affidavit would require disclosure of information or material prohibited from being disclosed by law. Any such extension must be to a specific date, not more than 90 days from the date of the request. The bill authorizes a prosecutor to seek more than one extension, but no single extension can exceed 90 days.

§§ 23-24 — Competency Evaluations

The bill requires sealing a written report concerning a criminal defendant's competency to stand trial from the public and prohibits disclosure of the report's contents, except during an evidentiary hearing about the defendant's competency at which the contents are relied upon by a participant as the basis for testimony, questioning of witnesses, arguments to the court, judicial findings, or as allowed to be disclosed by a psychiatrist under the psychiatrist-patient privilege. The bill also requires that the court state on the record its reasons for its finding that the defendant is competent or not competent.

By law, the state, a defendant, or a court can raise the issue of a criminal defendant's competency to stand trial. If the court determines that the defendant should be examined, it may appoint a psychiatrist or order the mental health and addiction services commissioner to conduct the examination. The examiner must submit a written report to the court, which then holds a competency hearing.

§ 20 — AVAILABILITY OF STATE AGENCY REGULATIONS

The bill requires the Commission on Official Legal Publications to make all state agency regulations available to the public through the Internet. By law, the commission publishes and distributes state agency regulations. It publishes (1) in the Connecticut Law Journal at least each month the text of regulations adopted in the preceding month and (2) a compilation of state agency regulations adopted since October 27, 1970 at least semiannually.

The bill also requires the Executive, Legislative, and Judicial branches to include on their websites links to compilations of effective regulations and text of recently filed regulations.

BACKGROUND

Case Law on Adoption of Rules

In 1974, the Connecticut Supreme Court held that the legislature had no power to establish procedural rules for the courts unless the courts acquiesced. It held unconstitutional a statute authorizing a criminal defendant to demand certain exculpatory information from the prosecutor. There was no specific court rule, but under the common law the defendant had to ask the court to exercise its discretion to order prosecutors to turn over their information (*State v. Clemente*, 166 Conn. 501 (1974)). The Supreme Court reaffirmed *Clemente* in 1982 holding that a court rule rather than a statute on joinder of indictments or informations in a criminal trial against the same defendant or different defendants would be followed (*State v. King*, 187 Conn. 677).

In 1989, the Supreme Court held that statutory rules of evidence do

not fall within the *Clemente* holding of exclusive judicial jurisdiction over matters of court administration, practices, and procedure (*State v. James*, 211 Conn. 555 (1989)).

State Referees

Any judge or senior judge who reaches the mandatory retirement age of 70 automatically becomes a state referee for the remainder of his or her term as judge, and is eligible for reappointment as a state referee for the remainder of his or her life. Although the law specifies that state referees may be reappointed “in the manner prescribed by law for the appointment of a judge of the court of which he is a member,” neither the Judicial Selection Commission nor the Judicial Branch has interpreted it as requiring referees to go through the Judicial Selection Commission’s process (CGS § 52-434).

Freedom of Information Meeting and Agenda Requirements

The law requires state agencies to file notices of their regular meetings with the Office of the Secretary of the State by January 31st each year. A special meeting may be called by filing a notice at least 24 hours before the meeting time. An emergency meeting may be held without complying with notice requirements.

Where practicable, the agency must mail a notice of its meetings at least a week before the meeting date (or less, if the meeting is called on less than a week’s notice) to anyone who has requested written notification.

An agency must make every regular meeting agenda available at least 24 hours before the meeting.

Administrative Functions

In *Clerk of the Superior Court, Geographical Area Number Seven v. Freedom of Information Commission*, 278 Conn. 28 (2006), the state Supreme Court held that records related to the Judicial Branch’s adjudicatory functions are categorically exempt from public disclosure and “administrative functions” are those relating to the branch’s budget, personnel, facilities, and physical operations of the courts.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 7 (03/24/2008)