STATE OF CONNECTICUT
JUDICIAL BRANCH

CHAMBERS OF
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CHIEF COURT ADMINISTRATOR

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Testimony of Judge Barbara M. Quinn
Judiciary Committee Public Hearing
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House Bill 5036, An Act Concerning Salaries of Judges, Family Support Magistrates and Referees

Good afternoon. My name is Barbara Quinn and I am the Chief Court Administrator. I am here today to discuss the Judicial Branch's position on two of the bills that are on your agenda. The first of these is **House Bill 5036, *An Act Concerning Salaries of Judges, Family Support Magistrates and Referees*.** This bill, which was proposed by the Governor, would raise the salaries of judges, family support magistrates and referees by 2 percent, effective January 1, 2009. I would like to thank Governor Rell for proposing this bill; the judges truly appreciate her support. However, the Judicial Branch has endorsed the recommendations of the Commission on Compensation of Judges and Elected Officials, which proposes a new mechanism for determining the salaries of judges and elected officials.

As you know, judges' salaries are established by statute. This means that no judge can receive an increase in salary unless the Legislature acts to increase the amount specified in the statute. While most state employees receive salary increases based upon established schedules, judges (and elected officials) do not receive periodic merit or cost of living increases.

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In order to address this difficult situation, last year the Compensation Commission recommended that the salaries of judges be linked to those of Executive Branch managers. Although their 2008 report has not yet been issued, I have been told that they will make a similar recommendation this year, for both judges and state legislators. Their proposed language would provide judges and family support magistrates with an increase equal to the average salary increase of state managers in that fiscal year. So, for example, if Executive Branch managers received an average of a 2 percent COLA and a 2 percent merit increase on July 1, 2009, the judges would receive a 4 percent increase in their compensation effective on July 15, 2009. Alternatively, if the managers did not receive any increase on July 1, 2009, then the judges would not receive a raise that year, either.

I would like to point out that Connecticut would not be on its own in linking judges' salaries to those of another group of individuals or cost of living increases – at least eleven other states do so. Some of them link to state employees, some of them link to federal judges and some of them link to the consumer price index. Linking judges' increases to the annual percentage that Executive Branch managers receive would provide the financial security and equitable pay arrangement that others in state government receive.

Turning to a related matter -- although this issue is not in the bill before you, I would like to take this opportunity to talk about another category of Judicial Branch employees who are in need of a raise – our temporary assistant clerks. This is an area of great concern to us. Temporary assistant clerks (TAC's) have become essential to the operation of our Judicial District courts. These individuals, most of whom have law degrees, supplement a shortage of full-time staff and provide invaluable assistance to judges in the courtrooms. They perform almost all of the same functions as permanent staff. There are

approximately 120 Temporary Assistant Clerks doing work that would otherwise be done by almost 100 full-time staff. These temporary positions were originally intended to be of limited duration, and were designed to provide future attorneys with invaluable courtroom experience and legal training. However, as shortages of full-time court staff have become more acute our reliance on TAC's has grown dramatically.

As temporary positions, it is reasonable to pay TAC's at a rate less than that of permanent full-time staff. However, TAC's are presently paid less than one-half the hourly rate of their full-time counterparts, and have not received a pay increase for 8 years. A pay increase is long overdue, and would help us attract qualified staff, especially in high cost areas such as Fairfield County. We are working on a long-term solution to this problem, but in the meantime, as a first step, I am recommending that the pay rate for TAC's should be increased to 80 percent of their full-time counterparts. This would cost approximately $2 million annually. The Judicial Branch did request the funding necessary for this increase, but unfortunately it was not included as part of the Governor's recommended budget. We have addressed this matter with the Appropriations Committee and are hopeful that the requisite funding will be provided in their recommended budget. We would appreciate the Legislature's support of this effort.

House Bill 5528,
An Act Concerning the Freedom of Information Act

The second bill that I would like to address today is **House Bill 5528,** ***An Act Concerning the Freedom of Information Act.*** The Judicial Branch has serious concerns with this proposal.

Section 3 of the bill would define the term "administrative functions" for purposes of the Freedom of Information Act. While the Judicial Branch supports clarifying that term, we do not support the language in this proposal - particularly the inclusion of "rule-making" in that definition, as it may be unconstitutional. We believe that definition should refer to "all matters not directly related to judicial activities in court cases" rather than the language that currently appears on lines 52-53 of the bill. Furthermore, we believe that "administrative functions" should be defined as including the management of the internal institutional machinery of the court system, accounting, budgeting, personnel, facilities, physical operations, scheduling, record keeping, and docketing. Finally, we object strenuously to the inclusion of "rulemaking" in the definition.

The rule-making process should not be defined as an administrative function under the Freedom of Information Act because its function is inherently adjudicatory, not administrative. By way of background, the Rules Committee is a body composed of judges of the Superior Court. Its function is to consider proposed changes in the rules of practice of the Superior Court, and to recommend amendments to the Practice Book, which contains those rules. As former Chief Justice Ellen Peters stated in Rules Committee of the Superior Court v FOI Commission (192 Conn. 234, 246), "The Rules Committee of the Superior Court plays no role in the management of the internal institutional machinery of

the court system. It is charged, instead, with the responsibility of formulating rules of practice and procedure that directly control the conduct of litigation. It sets the parameters of the adjudicative process that regulates the interactions between individual litigants and the courts."

This does not mean that Rules Committee proceedings should not be open – it simply means that they should not be governed by the Freedom of Information Act. Designating a matter as adjudicatory does not mean that it cannot be accessed by the public. The constitution mandates, with limited exceptions, public access to court proceedings. Rules Committee proceedings are open to the public. Proposed amendments to the Practice Book are published in the Connecticut Law Journal and are subject to a public hearing before their adoption, with ample opportunity for public comment. The list of members, minutes, meeting notices and agendas are posted on the Judicial Branch website for both the Rules Committee of the Superior Court and the Appellate Rules Committee. In addition, the meetings themselves are open to the public and the press.

Other Judicial Branch meetings are also open to the public, including the Annual Meeting of the Judges of the Superior Court, the Executive Committee of the Superior Court, the Board of Examiners for Court Reporters, the Legal Specialization Screening Committee and the Code of Evidence Oversight Committee. These meetings are noticed on the Judicial Branch website, along with lists of committee members, minutes and agendas. I believe that this demonstrates that the Judicial Branch is committed to conducting business in an open and transparent fashion.

Chief Justice Rogers and I both firmly believe that the more transparency and openness with which we do our jobs, the greater the degree of trust,

confidence and respect the public will have in us. The Judicial Branch is committed to doing our part to ensure the openness of all aspects of Connecticut courts. We have made tremendous progress over the past two years, and we would hope that the Legislature has confidence in our ability to continue that progress. I urge the Committee not to adopt the language in this section.

In addition to these concerns, we are also concerned with section 4 of the proposal, which would eviscerate the protections currently provided to, among others, judges and Judicial Branch employees. If this proposal is enacted, it would allow the home addresses of the persons who are currently protected to be disclosed by any office or agency that has that information, except for their employer. Currently, all public agencies are required to maintain the confidentiality of specified employees' and officials' home address. While it is true that if an employee or official does not provide the agency with notice of this protection, it may not be in a position to comply with the law, the solution to that problem should not be complete elimination of the protection. I would respectfully request that the Committee not act favorably on this provision.

Thank you for your consideration.