



**Substitute House Bill No. 6385**

**Public Act No. 09-114**

**AN ACT CONCERNING PROBATE COURT REFORMS AND ESTABLISHING A PROBATE REDISTRICTING COMMISSION.**

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

Section 1. Subsection (b) of section 45a-77 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) The Probate Court Administrator may issue and shall enforce regulations, provided such regulations are approved in accordance with subsection (c) of this section. Such regulations shall be binding on all courts of probate and shall concern the following matters for the administration of the probate court system: (A) Auditing, accounting, statistical, billing, recording, filing and other court procedures; (B) reassignment and transfer of cases; (C) training of court personnel and continuing education programs for judges of probate, probate magistrates, attorney probate referees and court personnel; (D) remitting funds received by the courts of probate under section 10 of this act to the Probate Court Administration Fund; (E) administering the compensation plan established under section 11 of this act for employees of the courts of probate; (F) establishing criteria for staffing levels for the courts of probate for the purposes of subsection (b) of section 11 of this act; (G) establishing criteria for the development and

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approval of miscellaneous office budgets for the courts of probate for the purposes of subsection (b) of section 11 of this act; (H) expending funds from the Probate Court Administration Fund for the purposes set forth in the regulations adopted pursuant to subparagraphs (D) to (G), inclusive, of this subdivision; and [(D)] (I) the enforcement of the provisions of this chapter and the regulations issued pursuant to this section, including, but not limited to, recovery of expenses associated with any such enforcement, as permitted by such regulations.

(2) The Probate Court Administrator may adopt regulations, in accordance with chapter 54, provided such regulations are approved in accordance with subdivision (1) of subsection (c) of this section. Such regulations shall be binding on all courts of probate and shall concern: (A) The availability of judges; (B) court facilities, personnel and records; [(C) hours of court operation; and (D)] and (C) telephone service.

Sec. 2. Section 45a-82 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011*):

(a) The Probate Court Administration Fund is established, to consist of the amounts [hereinafter] provided in this section, to be paid over [as herein provided] to the State Treasurer as provided in this section.

(b) The State Treasurer shall be the custodian of the fund established by this section, with power to administer it, and to invest and reinvest as much of [said] the fund as is not required for current disbursements in accordance with the provisions of the general statutes regarding the investment of savings banks.

(c) All payments from [said] the fund established by this section that are authorized by sections 5-259, as amended by this act, 17a-77, 17a-274, 17a-498, 17a-510, 19a-131b, 19a-131e, 19a-221, 45a-1 to 45a-12, inclusive, 45a-18 to 45a-26, inclusive, as amended by this act, 45a-34 to

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45a-56, inclusive, as amended by this act, 45a-62 to 45a-68, inclusive, 45a-74 to 45a-83, inclusive, as amended by this act, 45a-90 to [45a-94] 45a-93, inclusive, as amended by this act, 45a-98, 45a-99, 45a-105, 45a-119 to 45a-123, inclusive, as amended by this act, 45a-128, 45a-130, 45a-131, 45a-133, 45a-152, 45a-175 to 45a-180, inclusive, 45a-199, sections 11 and 19 of this act and section 45a-202, shall be made upon vouchers approved by the Probate Court Administrator.

(d) Monthly there shall be transferred from the fund established by this section to the retirement fund established by section 45a-35 not less than sufficient moneys, taking into account receipts by said retirement fund under the provisions of sections 45a-44 and 45a-45, to enable said retirement fund to meet its obligations as estimated by the Retirement Commission, until the Retirement Commission certifies that the retirement fund is on a sound actuarial basis.

(e) On or before July first annually, the Retirement Commission shall certify to the State Treasurer, on the basis of an actuarial determination, the amount to be transferred to the retirement fund to maintain the actuarial funding program adopted by the Retirement Commission.

(f) In addition to the [aforesaid] payments authorized in subsections (a) to (e), inclusive, of this section, there shall be transferred from time to time from the fund established by this section to the retirement fund established by section 45a-35 such amounts as are determined by the Probate Court Administrator not to be required for other purposes of sections 45a-20 and 45a-76 to 45a-83, inclusive, as amended by this act, until the Retirement Commission certifies that the retirement fund is on a sound actuarial basis. Thereafter there shall be transferred from time to time from the fund established by this section to the General Fund such amounts as are determined by the Probate Court Administrator not to be required for the purposes of said sections.

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(g) If at any time thereafter the Retirement Commission certifies that the retirement fund established by section 45a-35 is no longer on a sound actuarial basis, the Retirement Commission shall provide notice to the General Assembly and the Governor, and transfers from [this] the fund established by this section to the retirement fund shall be resumed until the Retirement Commission again certifies that said retirement fund is on a sound actuarial basis, at which time the Retirement Commission shall provide notice to the General Assembly and the Governor, and transfers from [this] the fund established by this section to the General Fund shall be resumed.

(h) All payments of assessments imposed by section 45a-92, as amended by this act, with respect to income received by any judge of probate on or after January 1, 1968, shall be paid in accordance with the schedule set forth in section 45a-92, as amended by this act.

(i) The State Treasurer shall, on or before October first, annually, give an accounting of the Probate Court Administration Fund, showing the receipts and disbursements and the balance or condition thereof, as of the preceding June thirtieth, to the Connecticut Probate Assembly, the Governor and [to] the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary.

(j) [In the event that any court of probate otherwise receives income which is insufficient to meet, on an ongoing basis, the reasonable and necessary financial needs of that court, including the salaries of the judge and the judge's staff, there] There shall be transferred from time to time from the Probate Court Administration Fund such budgeted amounts as are [determined by the Probate Court Administrator to be reasonable and necessary] established in accordance with section 11 of this act or such expenditures as are authorized pursuant to subsection (c) of section 45a-84, as amended by this act, for the proper administration of each [such] court of probate. [Except as provided in

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subsection (k) of section 45a-92, the judge's annual salary shall not exceed the average annual salary of such judge for the three-year period next preceding the request for financial assistance or the product resulting from the multiplication of fifteen dollars by the annual weighted-workload of the court, as defined in subsection (c) of section 45a-92, whichever is greater, but not to exceed the annual compensation provided in subsection (k) of section 45a-92.] Notwithstanding any provision of the general statutes, on June 30, 2011, and annually thereafter, any surplus funds in the Probate Court Administration Fund shall be transferred to the General Fund.

[(k) Each judge of probate requesting financial assistance at any time during any calendar year shall file with the Probate Court Administrator a sworn statement showing the actual gross receipts and itemized expenses of the judge's court and the amount requested, together with an explanation therefor. The Probate Court Administrator may approve and issue an invoice to the State Comptroller pursuant to subsection (c) of this section, authorizing payment to the court of probate in such amounts as shall have been approved by the Probate Court Administrator.

(l) The Probate Court Administrator may issue regulations pursuant to subdivision (1) of subsection (b) of section 45a-77 in order to carry out the intent of subsections (j) and (k) of this section.]

Sec. 3. Section 45a-84 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011*):

(a) (1) On or before April first of each year, the Probate Court Administrator shall prepare a proposed budget for the next succeeding fiscal year beginning July first, for the appropriate expenditures of funds from the Probate Court Administration Fund to carry out the statutory duties of the Probate Court Administrator. The proposed budget shall reflect all costs related to the office of the Probate Court

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Administrator and the operation of the courts of probate, including, but not limited to, compensation, group hospitalization and medical and surgical insurance plans and retirement benefits for probate judges and employees. Expenditures in the proposed budget shall not exceed anticipated available funds.

(2) The Probate Court Administrator shall submit the proposed budget to the executive committee of the Connecticut Probate Assembly for review. The executive committee shall return the proposed budget to the Probate Court Administrator [no] not later than May first, together with its comments and recommendations concerning the proposed expenditures. The Probate Court Administrator shall thereafter prepare a proposed final budget, including such changes recommended by the executive committee as the Probate Court Administrator deems appropriate. On or before May fifteenth, the Probate Court Administrator shall transmit the proposed final budget to the Chief Court Administrator for approval, together with the comments and recommendations of the executive committee of the Probate Assembly. On or before June fifteenth of that year, the Chief Court Administrator shall take such action on the budget, or any portion thereof, as the Chief Court Administrator deems appropriate. If the Chief Court Administrator fails to act on the proposed budget on or before June fifteenth, the budget shall be deemed approved as proposed.

(b) The Probate Court Administrator may, from time to time, request authority from the Chief Court Administrator to expend additional money from the Probate Court Administration Fund to respond to any matter that could not have been reasonably anticipated in the regular budget process. A copy of all such requests shall be sent to the [president judge] president-judge of the Connecticut Probate Assembly. If the Chief Court Administrator fails to act on the request within twenty-one calendar days of receipt of the request, the request

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shall be deemed approved.

(c) The Probate Court Administrator may authorize such expenditures from the Probate Court Administration Fund for emergency purposes as from time to time may be necessary. [ provided the aggregate amount of such emergency expenditures for any one fiscal year shall not exceed five thousand dollars. A report on each such expenditure shall be sent] If an expenditure under this subsection exceeds ten thousand dollars, the Probate Court Administrator shall send a report on the expenditure to the Chief Court Administrator and the [president judge] ~~president-judge~~ of the Connecticut Probate Assembly within ten days after the expenditure is made.

Sec. 4. Section 45a-92 of the general statutes is amended by adding subsection (l) as follows (*Effective from passage*):

(NEW) (l) This section applies only to income received by the courts of probate prior to January 5, 2011.

Sec. 5. Section 45a-93 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) If a judge of probate leaves office or dies while in office, the successor to such judge in said office [ ] shall pay to such judge or the personal representative of a deceased judge [ ] a sum representing the accounts receivable for payments due the court in accordance with section 45a-105, as of the date of separation from said office or the date of death in the case of a judge who dies while holding such office. Determination of the basis for such accounts receivable including computation for work in process shall be made in accordance with regulations issued by the Probate Court Administrator. Any payments made to such judge or the personal representative of a deceased judge shall be subject to the provisions of section 45a-92, as amended by this

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act, and no such payments shall be made unless and until the accounts receivable are collected by the successor judge and no such payments shall be made except within the time for filing a statement signed under penalty of false statement showing the actual gross receipts of the itemized costs of the office in accordance with [said] section 45a-92, as amended by this act. There may be deducted from any such amounts by a successor judge the cost of collection thereof, and any expenses directly attributable to the outgoing judge's or deceased judge's term of office paid by the successor judge. In no event shall any such payments exceed the maximums allowable under the provisions of [said] section 45a-92, as amended by this act, in any one calendar year, and in the aggregate in no event shall the total payments payable under this section exceed one hundred per cent of the average final compensation for such judge as defined in subdivision (1) of section 45a-34, as amended by this act, except that such allowable maximum payment shall not include any amounts of money due and payable to the judge at the time of separation from the court or at the time of such judge's death for amounts advanced by such judge to the court for operating expenses and not previously repaid, which amounts may be paid to such judge or personal representative upon receipt of satisfactory proof of the existence of balances due.

(b) (1) Except as provided in subdivision (2) of this subsection, the provisions of subsection (a) of this section shall apply to any judge in office on or before January 4, 2011.

(2) The provisions of subsection (a) of this section shall not apply to a judge who is first elected on or after January 5, 2011, or who resumes office after a break in service on or after January 5, 2011.

(c) On and after January 5, 2011, any payments due a judge under subsection (a) of this section shall be paid from the Probate Court Administration Fund.

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Sec. 6. Section 45a-56 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011, and applicable to premiums paid on or after January 1, 2011*):

(a) Notwithstanding the provisions of section 5-259, as amended by this act, the Comptroller, with the approval of the Attorney General and the Insurance Commissioner, shall arrange and procure a group hospitalization and medical and surgical insurance and dental insurance plan for the probate judges and employees retirement system with coverage equal to that available under section 5-259, as amended by this act, or otherwise available, to retired state employees and their spouses and surviving spouses.

(b) Any member of the probate judges and employees retirement system who is retired and receiving benefits from such system, and the spouse of any such member, and upon the death of any such member, such member's surviving spouse, while receiving benefits from such system, may elect to participate in the group insurance plan procured by the Comptroller under subsection (a) of this section.

(c) The premium charged for any such member and spouse or surviving spouse who elects to participate in the group hospitalization and medical and surgical portion of such coverage shall be paid from [the retirement fund established pursuant to section 45a-35] funds appropriated to the State Comptroller, for Fringe Benefits, for Retired State Employees Health Service Cost. Twenty per cent of the premium charged for any such member and spouse or surviving spouse who elects to participate in the group dental portion of such coverage shall be paid from said [retirement fund] funds, and the remainder of the premium for such coverage shall be paid by the participant. On July 1, 2011, and monthly thereafter, the State Treasurer shall transfer from the General Fund to the State Comptroller the amount of premium due for the month pursuant to this subsection, as certified by the State Comptroller.

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(d) Any such member and spouse or surviving spouse who is a participant in the group insurance plan in effect prior to October 1, 1994, may elect to participate in the plan set forth in subsection (a) of this section at the premiums set forth in subsection (c) of this section, provided such election is made within sixty days of October 1, 1994.

Sec. 7. Subsections (g) and (h) of section 5-259 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective January 5, 2011*):

(g) Notwithstanding the provisions of subsection (a) of this section, the Probate Court Administration Fund established in accordance with section 45a-82, as amended by this act, shall pay for each probate judge [and Probate Court employee] and each probate court employee not more than one hundred per cent of the portion of the premium charged for [his or her] the judge's or employee's individual coverage and not more than fifty per cent of any additional cost for [his or her] the judge's or employee's form of coverage. The remainder of the premium for such coverage shall be paid by the probate judge or [Probate Court] probate court employee to the State Treasurer. Payment shall be credited by the State Treasurer to the fund established by section 45a-82, as amended by this act. The total premiums payable shall be remitted by the Probate Court Administrator directly to the insurance company or companies or nonprofit organization or organizations providing the coverage. The Probate Court Administrator shall issue regulations governing group hospitalization and medical and surgical insurance pursuant to subdivision (1) of subsection (b) of section 45a-77, as amended by this act.

(h) For the purpose of subsection (g) of this section, ["Probate Court employee"] "probate judge" or "judge" means a duly elected probate judge who works in such judge's capacity as a probate judge at least twenty hours per week, on average, on a quarterly basis and certifies

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to that fact on forms provided by and filed with the Probate Court Administrator, on or before the fifteenth day of April, July, October and January, for the preceding calendar quarter; and "probate court employee" or "employee" means a person employed by a probate court for at least twenty hours per week.

Sec. 8. Section 45a-34 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011*):

The following words and phrases as used in sections 45a-34 to 45a-54, inclusive, and 45a-75 except as otherwise provided, shall have the following meanings:

(1) "Average final compensation" means, in the case of a judge of probate, the average annual compensation for the three highest paid years of service while serving in the probate court to which the judge was elected or by citation to any other court or courts, provided, for purposes of this section, the compensation for any one year shall not exceed the maximum net annual income currently allowed by law, and, in the case of an employee, the average annual rate of pay during the employee's three highest paid years of employment;

(2) "Credited service" means (A) all periods during which a person held the office of judge of probate and any period of service elected by a judge pursuant to section 45a-36a, as amended by this act, or (B) any period during which a person served as an employee of any probate court or (C) subject to the requirements of subsections (a) and (b) of section 45a-54, a period of not more than three years for service as a member of the General Assembly and military service or (D) the aggregate of any periods of service provided for in subparagraphs (A), (B) and (C) of this subsection;

(3) "Employee" means (A) with respect to a person employed or who serves prior to January 1, 2011, a person employed by any probate

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court for more than four hundred thirty hours per year or a person who served for more than four hundred thirty hours per year performing under any contract of employment with any court of probate, and (B) with respect to a person first employed or who first serves on or after January 1, 2011, a person employed by any probate court for at least one thousand hours per year or a person who serves at least one thousand hours per year performing under any contract of employment with any court of probate;

(4) "Fund" means the retirement fund established by section 45a-35;

(5) "Judge" means a judge of probate, except that, with respect to a judge first elected for a term beginning on or after January 5, 2011, judge means a person who holds the office of judge of probate and works in such judge's capacity as a judge of probate for at least one thousand hours per year as determined pursuant to information filed by the judge of probate with the Probate Court Administrator pursuant to subsection (h) of section 5-259, as amended by this act;

[(5)] (6) "Member" means any judge of probate or employee who is or may become eligible for retirement benefits under sections 45a-34 to 45a-54, inclusive, and 45a-75;

[(6)] (7) "Normal retirement age" means the age of sixty-two for any judge of probate or any employee;

[(7)] (8) "Old Age and Survivors System" means the system established under Title II of the Social Security Act, as amended;

[(8)] (9) "Pay" means the salary, wages or earnings of an employee, but does not include any fees or allowances for expenses;

[(9)] (10) "Retirement Commission" means the State Retirement Commission; and

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[(10)] (11) "Social Security Act" means the Act of Congress, approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the Social Security Act, including regulations issued pursuant thereto, as such act has been and may from time to time be amended.

Sec. 9. Section 45a-36a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

Any judge of probate in office on or after October 1, 1997, whose probate district is merged with another district on or before January 5, 2011, and who has not been elected to a term which begins at the time of, or subsequent to, such [consolidation] merger, (1) may elect to receive four years of credited service, as defined in subdivision (2) of section 45a-34, as amended by this act, (2) may elect to receive a reduction of his or her retirement age of not more than four years pursuant to subsection (a) of section 45a-36, or (3) may elect any combination of credited service and reduction of retirement age under subdivisions (1) and (2) of this section, provided such combination shall not exceed four years in total. A judge of probate may elect to receive credited service or a reduction of retirement age in accordance with this section at any time once the judge becomes eligible to retire and receive retirement benefits.

Sec. 10. (NEW) (*Effective January 1, 2011*) Each court of probate shall remit all fees, costs and other income received, including, but not limited to, moneys received under sections 45a-105 to 45a-112, inclusive, of the general statutes, as amended by this act, to the State Treasurer to be credited to the Probate Court Administration Fund under section 45a-82 of the general statutes, as amended by this act. Expenses paid by a town pursuant to section 45a-8 of the general statutes shall not be remitted to the Probate Court Administration Fund.

Sec. 11. (NEW) (*Effective from passage*) (a) The Probate Court

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Administrator shall establish a Probate Court Budget Committee consisting of the Probate Court Administrator and two judges of probate appointed by the Connecticut Probate Assembly. The Probate Court Administrator shall serve as chairperson of the committee.

(b) Not later than June 30, 2010, and annually thereafter, the committee shall establish, in accordance with the criteria established in regulations issued pursuant to subsection (b) of section 45a-77 of the general statutes, as amended by this act: (1) A compensation plan, which plan shall include employee benefits, for employees of the courts of probate, (2) staffing levels for each court of probate, and (3) a miscellaneous office budget for each court of probate. Such compensation plan, staffing levels and office budgets shall be established within the expenditures and anticipated available funds in the proposed budget established pursuant to section 45a-84 of the general statutes, as amended by this act.

(c) Not later than June 30, 2010, and annually thereafter, the Probate Court Budget Committee shall report to the Governor and the General Assembly, after consultation with the Office of the Chief Court Administrator and the Secretary of the Office of Policy and Management, on the committee's efforts to reduce costs and any potential cost saving measures resulting from probate court mergers effective on or after the effective date of this section. Such report shall be submitted in accordance with section 11-4a of the general statutes.

Sec. 12. (NEW) (*Effective January 5, 2011*) As used in this section and section 13 of this act:

(1) "Band 1 probate district" means a probate district that has a population of less than forty thousand, except a probate district that has a population of less than forty thousand with an annual weighted-workload of at least three thousand, but less than four thousand one hundred, which constitutes a band 2 probate district.

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(2) "Band 2 probate district" means a probate district that has a population of at least forty thousand but less than fifty thousand, except that a probate district with less than forty thousand with an annual weighted-workload of at least three thousand, but less than four thousand one hundred, shall be a band 2 probate district.

(3) "Band 3 probate district" means a probate district that has a population of at least fifty thousand but less than sixty thousand, except that a probate district with less than fifty thousand with an annual weighted-workload of at least four thousand one hundred, but less than four thousand nine hundred, shall be a band 3 probate district.

(4) "Band 4 probate district" means a probate district that has a population of sixty thousand or more, except that a probate district with less than sixty thousand with an annual weighted-workload of at least four thousand nine hundred, shall be a band 4 probate district.

(5) "Population" means the annual population estimate by the Department of Public Health for each city or town as of October first of the immediately preceding calendar year.

(6) "Annual weighted-workload" means the annual weighted-workload for the immediately preceding fiscal year as defined in regulations issued by the Probate Court Administrator pursuant to subdivision (1) of subsection (b) of section 45a-77 of the general statutes, as amended by this act.

Sec. 13. (NEW) (*Effective January 5, 2011*) (a) Notwithstanding any provision of title 45a of the general statutes concerning compensation for judges of probate, and subject to the provisions of subsections (b) and (c) of this section, for any calendar year, compensation for judges of probate shall be determined as follows:

(1) A judge of probate who serves a band 1 probate district shall

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receive annual compensation equal to forty-five per cent of the compensation of a judge of the Superior Court as set forth in subsection (a) of section 51-47 of the general statutes.

(2) A judge of probate who serves a band 2 probate district shall receive annual compensation equal to fifty-five per cent of the compensation of a judge of the Superior Court as set forth in subsection (a) of section 51-47 of the general statutes.

(3) A judge of probate who serves a band 3 probate district shall receive annual compensation equal to sixty-five per cent of the compensation of a judge of the Superior Court as set forth in subsection (a) of section 51-47 of the general statutes.

(4) A judge of probate who serves a band 4 probate district shall receive annual compensation equal to seventy-five per cent of the compensation of a judge of the Superior Court as set forth in subsection (a) of section 51-47 of the general statutes.

(b) Notwithstanding the provisions of subsection (a) of this section, no judge of probate in office on January 4, 2011, may, for the term of office beginning January 5, 2011, and ending January 6, 2015, receive compensation under subsection (a) of this section that is less than eighty per cent of the average annual compensation for the judge of probate during the three-year period from January 1, 2008, to December 31, 2010, inclusive. The provisions of this subsection shall not apply to the compensation of a judge of probate whose district results from a merger that becomes effective on January 5, 2011, or to any person first elected to serve as a judge of probate for a term beginning on or after January 5, 2011.

(c) For any calendar year, compensation of any judge of probate who assumes office or ceases to hold office during such calendar year shall be determined by multiplying the judge's annual compensation

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determined in accordance with subsections (a) and (b) of this section by a fraction with the number of days served during the calendar year as the numerator of the fraction and three hundred sixty-five as the denominator of the fraction.

Sec. 14. Section 45a-186 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 5, 2011*):

(a) Any person aggrieved by any order, denial or decree of a court of probate in any matter, unless otherwise specially provided by law, may, not later than forty-five days after the mailing of an order, denial or decree for a matter heard under any provision of section 45a-593, 45a-594, 45a-595 or 45a-597, sections 45a-644 to 45a-677, inclusive, or sections 45a-690 to 45a-705, inclusive, and not later than thirty days after mailing of an order, denial or decree for any other matter in a court of probate, appeal therefrom to the Superior Court. Such an appeal shall be commenced by filing a complaint in the superior court in the judicial district in which such court of probate is located, except that (1) an appeal under subsection (b) of section 12-359, subsection (b) of section 12-367 or subsection (b) of section 12-395 shall be filed in the judicial district of Hartford, and (2) an appeal in a matter concerning removal of a parent as guardian, termination of parental rights or adoption shall be filed in the superior court for juvenile matters having jurisdiction over matters arising in such probate district. The complaint shall state the reasons for the appeal. A copy of the order, denial or decree appealed from shall be attached to the complaint. Appeals from any decision rendered in any case after a recording is made of the proceedings under section 17a-498, 17a-685, 45a-650, 51-72 or 51-73 shall be on the record and shall not be a trial de novo.

(b) Each person who files an appeal pursuant to this section shall [serve] mail a copy of the complaint [on] to the court of probate that rendered the order, denial or decree appealed from, and serve a copy of the complaint on each interested party. The failure of any person to

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make such service shall not deprive the Superior Court of jurisdiction over the appeal. Notwithstanding the provisions of section 52-50, service of the copy of the complaint shall be by state marshal, constable or an indifferent person. Service shall be in hand or by leaving a copy [at the court of probate that rendered the order being appealed, or by leaving a copy] at the place of residence of the interested party being served or at the address for the interested party on file with said court of probate, except that service on a respondent or conserved person in an appeal from an action under part IV of chapter 802h shall be in hand by a state marshal, constable or an indifferent person.

(c) Not later than fifteen days after a person files an appeal under this section, the person who filed the appeal shall file or cause to be filed with the clerk of the Superior Court a document containing (1) the name, address and signature of the person making service, and (2) a statement of the date and manner in which a copy of the complaint was served on the court of probate and each interested party.

(d) If service has not been made on an interested party, the Superior Court, on motion, shall make such orders of notice of the appeal as are reasonably calculated to notify any necessary party not yet served.

(e) A hearing in an appeal from probate proceedings under section 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685, 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699, 45a-703 or 45a-717 shall commence, unless a stay has been issued pursuant to subsection (f) of this section, not later than ninety days after the appeal has been filed.

(f) The filing of an appeal under this section shall not, of itself, stay enforcement of the order, denial or decree from which the appeal is taken. A motion for a stay may be made to the Court of Probate or the Superior Court. The filing of a motion with the Court of Probate shall not preclude action by the Superior Court.

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(g) Nothing in this section shall prevent any person aggrieved by any order, denial or decree of a court of probate in any matter, unless otherwise specially provided by law, from filing a petition for a writ of habeas corpus, a petition for termination of involuntary representation or a petition for any other available remedy.

(h) (1) Except for matters described in subdivision (3) of this subsection, in any appeal filed under this section, the appeal may be referred by the Superior Court to a special assignment probate judge appointed in accordance with section 45a-79b, who is assigned by the Probate Court Administrator for the purposes of such appeal, except that such appeal shall be heard by the Superior Court if any party files a demand for such hearing in writing with the Superior Court not later than twenty days after service of the appeal.

(2) An appeal referred to a special assignment probate judge pursuant to this subsection shall proceed in accordance with the rules for references set forth in the rules of the judges of the Superior Court.

(3) The following matters shall not be referred to a special assignment probate judge pursuant to this subsection: Appeals under sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688, inclusive, children's matters as defined in subsection (a) of section 45a-8a, sections 45a-644 to 45a-663, inclusive, 45a-668 to 45a-684, inclusive, and 45a-690 to 45a-700, inclusive, and any matter in a court of probate heard on the record in accordance with sections 51-72 and 51-73.

Sec. 15. Section 45a-18 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) There shall be a court of probate in each probate district held by one judge elected by the electors residing in such district at the state election in 1974, and every four years thereafter.

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(b) Each judge of probate shall hold office for four years beginning on the Wednesday after the first Monday in January next following his or her election.

(c) Each judge of probate, before entering upon his or her duties as a judge of probate, shall be sworn and shall record his or her certificate of election upon the records of his or her court of probate.

(d) [He] Each judge of probate shall appoint a clerk and may appoint one or more assistant clerks, each of whom shall be sworn to a faithful performance of [his] such clerk's duties and shall, when required, give whatever bond the judge deems necessary. Each such clerk shall continue in office until [he] such clerk resigns, is removed or is superseded.

(e) Each judge of probate elected for a term that begins on or after January 5, 2011, shall be a member of the bar of the state of Connecticut, except that the requirements of this subsection shall not apply to any judge of probate who was in office on January 4, 2011, for the period such judge of probate continues to serve as a judge of probate on and after January 5, 2011, without a break in service.

Sec. 16. Subsection (a) of section 45a-79c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011*):

(a) A court of probate shall be open to the public for the conduct of court business not less than [twenty] forty hours each week, Monday through Friday, excluding holidays, on a regular schedule between the hours of eight o'clock a.m. and five o'clock p.m. The judge of probate of a probate district may close a court temporarily owing to inclement weather, an emergency or other good cause. Such judge shall immediately give notice of a temporary closing to the Probate Court Administrator, together with the reason for such closing and the date

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and time when the court will reopen.

Sec. 17. Subsection (c) of section 45a-111 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2011*):

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

Sec. 18. Section 45a-123 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 5, 2011*):

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(a) (1) In any matter pending in any court of probate, except an involuntary patient matter or involuntary commitment matter under chapter 319i, a temporary custody matter under part II of chapter 802h, or an involuntary representation matter under part IV of chapter 802h, the court may [appoint a committee of a disinterested person or a former judge of] refer the matter, with the consent of the parties or their attorneys, to a probate magistrate or attorney probate referee assigned by the Probate Court Administrator pursuant to section 19 of this act to hear the matter. [The former judge shall be selected from a panel of judges provided by the Probate Court Administrator. The court shall give notice of the time and place of the hearing. Such committee]

(2) The probate magistrate or attorney probate referee to whom the matter is referred shall hear the matter and file a report [its] with the court on his or her findings of fact and conclusions drawn therefrom not later than [thirty] sixty days after the [date] conclusion of such hearing. [to the court.] The probate magistrate or attorney probate referee may file an amendment to the report with the court prior to the date the court accepts, modifies or rejects the report pursuant to subdivision (4) of this subsection. Upon the filing of any report or amendment to a report under this subdivision, the probate clerk shall provide a copy of the report or amendment to the report to the parties and their attorneys.

(3) Any party aggrieved by a finding of fact or a conclusion drawn therefrom in a report or amendment to a report may file an objection with the court not later than twenty-one days after the date the report was filed pursuant to subdivision (2) of this subsection.

(4) At least twenty-one days after a report is filed pursuant to subdivision (2) of this subsection, the court shall hold a hearing on the report and any amendment to the report or objection filed pursuant to this subsection. Not later than thirty days after the conclusion of a

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hearing under this subdivision, the court shall determine whether to accept, modify or reject the report or any amendment to the report. If the court finds that the probate magistrate or attorney probate referee has materially erred in his or her findings or conclusions in such report or amendment or that there are other sufficient reasons why the report or amendment should not be accepted, the court shall, in the court's discretion, modify or reject the report or amendment. If the court [accepts the findings, it shall issue a decree. If the court rejects the findings, it] rejects the report and any amendment to the report, the court may hear and determine the matter or [appoint a different committee] refer the matter to a different probate magistrate or attorney probate referee assigned by the Probate Court Administrator pursuant to section 19 of this act to hear the matter and report [its] his or her findings of fact and conclusions drawn therefrom in accordance with subdivision (2) of this subsection, provided the parties or their attorneys consent to such referral. If the court accepts or modifies the report or amendment, the court shall issue a decree.

(5) The court shall give notice to the parties and their attorneys of the time and place of any hearing under this subsection.

(b) [The committee] Each probate magistrate and attorney probate referee shall be sworn to faithfully perform the duties of [its appointment] a probate magistrate or attorney probate referee, as the case may be, and shall have all the powers conferred by law upon [courts] judges of probate for procuring the attendance of witnesses and for punishing for contempt.

[(c) The committee's fees shall not exceed two hundred fifty dollars per diem and shall be fixed by the court and paid by the executor, administrator, trustee, conservator, guardian or other party to the action, or by the court pursuant to regulations established by the Probate Court Administrator. If a party is unable to pay such fees and files an affidavit with the court demonstrating an inability to pay, the

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reasonable compensation of the committee shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.]

Sec. 19. (NEW) (*Effective January 5, 2011*) (a) (1) There shall be probate magistrates for the purpose of hearing matters referred pursuant to section 45a-123 of the general statutes, as amended by this act. Any former judge of probate under seventy years of age, other than a judge of probate receiving a retirement allowance under section 45a-40 of the general statutes due to permanent and total disability, who is an elector of this state shall be eligible for nomination, appointment or assignment as a probate magistrate.

(2) The Probate Court Administrator may nominate former judges of probate who meet the requirements of this subsection to serve as probate magistrate. The Probate Court Administrator shall provide a list of such nominated former judges to the Chief Justice of the Supreme Court and update the list as necessary. The Chief Justice shall appoint probate magistrates from the list for a term of three years and inform the Probate Court Administrator of such appointments. The Probate Court Administrator shall assign probate magistrates pursuant to section 45a-123 of the general statutes, as amended by this act, from among the probate magistrates appointed by the Chief Justice.

(3) Each probate magistrate shall receive, for each day the probate magistrate is engaged as a probate magistrate, in addition to any retirement salary the probate magistrate is entitled to receive, an amount of fifty dollars per hour, not to exceed two hundred fifty dollars per day, for each day of service. Such service includes, but is not limited to, conducting hearings and preparing a report or amendment to a report pursuant to section 45a-123 of the general statutes, as amended by this act. Service as a probate magistrate shall not constitute credited service for purposes of health, retirement or other benefits. Amounts paid to a probate magistrate under this

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subdivision shall be paid from the Probate Court Administration Fund established under section 45a-82 of the general statutes, as amended by this act.

(b) (1) In addition to the probate magistrates appointed pursuant to subsection (a) of this section, there shall be attorney probate referees for the purpose of hearing matters referred pursuant to section 45a-123 of the general statutes, as amended by this act. Any individual who has been a member of the bar of this state in good standing for at least five years, is an elector of this state and is under seventy years of age shall be eligible for nomination, appointment and assignment as an attorney probate referee.

(2) The Probate Court Administrator may nominate individuals who meet the requirements of this subsection as attorney probate referees. Any judge of probate may submit to the Probate Court Administrator, on such form and in such manner as the Probate Court Administrator prescribes, a recommendation that the Probate Court Administrator nominate a specified individual as attorney probate referee, provided the individual meets the requirements of this subsection. The Probate Court Administrator shall consider any such recommendation prior to making a nomination under this subdivision, but shall not be bound by such recommendation. The Probate Court Administrator shall ensure geographic, racial and ethnic diversity among individuals nominated as attorney probate referee.

(3) The Probate Court Administrator shall provide a list of individuals nominated as attorney probate referee to the Chief Justice of the Supreme Court and update the list as necessary. The Chief Justice shall appoint attorney probate referees from the list for a term of three years and inform the Probate Court Administrator of such appointments. The Probate Court Administrator shall assign attorney probate referees pursuant to section 45a-123 of the general statutes, as amended by this act, from among the attorney probate referees

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appointed by the Chief Justice.

(4) No attorney probate referee shall receive compensation for his or her duties as an attorney probate referee.

(5) Not later than January 1, 2012, and annually thereafter, the Probate Court Administrator shall submit a report to the Governor and the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary that includes (1) the number of attorney probate referees nominated, appointed and assigned under this subsection during the prior calendar year, and (2) an analysis of the geographic, racial and ethnic diversity of attorney probate referees nominated, appointed and assigned under this subsection during the prior calendar year. The report shall be submitted in accordance with section 11-4a of the general statutes.

(c) Each probate magistrate and attorney probate referee shall complete continuing education programs established for such magistrates and referees under regulations issued by the Probate Court Administrator pursuant to section 45a-77 of the general statutes, as amended by this act.

(d) No person shall be subject to the requirements of sections 45a-25 and 45a-26 of the general statutes with respect to judges of probate solely on the basis of such person's nomination, appointment or assignment as a probate magistrate or an attorney probate referee.

Sec. 20. Section 45a-90 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) There shall be an assembly of the elected and qualified acting judges of the courts of probate, to be known as the Connecticut Probate Assembly, of which all judges of probate shall be members. The annual meeting of the assembly shall be held on any day in April in the Supreme Court room at Hartford. Other stated or special meetings of

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the assembly shall be held as provided in its bylaws.

(b) The assembly shall transact any business which may properly come before its meetings and which pertains to the probate courts, the improvement of and uniformity in their procedure and practice, the administration of justice in the courts of probate and the administration of the assembly. The assembly may make such recommendations to the Probate Court Administrator as it sees fit regarding any or all of these matters. The assembly may adopt bylaws to govern it and its meetings.

(c) Any probate magistrate or attorney probate referee appointed pursuant to section 19 of this act may attend any annual or special meeting of the assembly or any educational program of the assembly, but shall have no vote in any decision of the assembly.

Sec. 21. (*Effective from passage*) (a) There is established a probate redistricting commission for the purpose of developing a plan for the consolidation of probate districts established in sections 45a-2 to 45a-6k, inclusive, of the general statutes. Such plan shall be developed in accordance with section 22 of this act.

(b) The probate redistricting commission shall consist of the following members:

- (1) Two appointed by the speaker of the House of Representatives;
- (2) Two appointed by the president pro tempore of the Senate;
- (3) Two appointed by the minority leader of the House of Representatives;
- (4) Two appointed by the minority leader of the Senate;
- (5) One appointed by the majority leader of the House of Representatives;

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(6) One appointed by the majority leader of the Senate;

(7) Two appointed by the Governor; and

(8) The Probate Court Administrator, as a nonvoting, ex-officio member.

(c) Any member of the probate redistricting commission appointed under subdivision (1), (2), (3), (4), (5), (6) or (7) of subsection (b) of this section may be a (1) member of the General Assembly, or (2) judge of probate.

(d) All appointments to the probate redistricting commission shall be made not later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority. The Probate Court Administrator shall schedule the first meeting of the probate redistricting commission, which shall be held not later than forty-five days after the effective date of this section.

(e) There shall be one chairperson of the probate redistricting commission who shall be selected by and from among the voting members of the probate redistricting commission.

(f) The office of the Probate Court Administrator shall provide administrative support to the probate redistricting commission, including, but not limited to, clerical staff and supplies.

(g) The probate redistricting commission shall terminate as provided in subsection (f) of section 22 of this act.

Sec. 22. (*Effective from passage*) (a) The probate redistricting commission established in section 21 of this act shall develop a plan for consolidating the probate court districts established in sections 45a-2 to 45a-6k, inclusive, of the general statutes. Under the plan, there shall be no fewer than forty-four probate court districts and no more than fifty

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probate court districts. Additional criteria to be considered by the probate redistricting commission when establishing probate court districts under the plan include (1) a requirement that each probate court district contain a minimum population of forty thousand persons determined in accordance with the last annual population estimate by the Department of Public Health as of October 1, 2008, for each city or town, or in the alternative, an annual weighted-workload of the court of three thousand, calculated in accordance with subdivision (6) of section 12 of this act, provided the plan may allow for probate court districts that do not meet either requirement set forth in this subdivision, taking into consideration the following criteria: (A) The geographic accessibility of the probate court to residents of the proposed probate court district; (B) the availability of municipal facilities to house the probate court; and (C) communities of interest among municipalities sharing a proposed probate court district; (2) a requirement that no municipality may be included in more than one probate court district; and (3) any other criteria deemed appropriate and necessary by the probate redistricting commission.

(b) The Connecticut Probate Assembly may submit a plan for redistricting the various probate courts to the probate redistricting commission not later than forty-five days after the effective date of this section, provided such plan meets the criteria set forth in subsection (a) of this section. In developing such plan, the Connecticut Probate Assembly may consider any voluntary consolidations agreed to by towns in this state. The probate redistricting commission may consider any plan submitted by the Connecticut Probate Assembly in accordance with this subsection, but shall not be bound by such plan.

(c) The probate redistricting commission shall hold a public hearing on any plan submitted by the Connecticut Probate Assembly pursuant to subsection (b) of this section and may hold a public hearing on any other subject deemed appropriate by the commission.

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(d) The probate redistricting commission shall develop a plan for the consolidation of probate districts in accordance with the criteria set forth in subsection (a) of this section. Such plan shall include recommended amendments to sections 45a-2 to 45a-6k, inclusive, of the general statutes and other sections of the general statutes necessary to implement the plan.

(e) Not later than September 15, 2009, the probate redistricting commission shall file a plan for the consolidation of probate districts established in sections 45a-2 to 45a-6k, inclusive, of the general statutes with the clerk of the House of Representatives and the clerk of the Senate, except that the probate redistricting commission may not submit a plan to said clerks unless the plan has received the affirmative vote of at least seven members of the probate redistricting commission. The commission shall file a copy of the plan with the Governor on the date the plan is filed with said clerks.

(f) (1) Upon the filing of a report with said clerks pursuant to subsection (e) of this section, the speaker of the House of Representatives and the president pro tempore of the Senate shall convene the General Assembly in special session for the sole purpose of considering and voting on the plan. Upon the request of the speaker of the House of Representatives and the president pro tempore of the Senate, the Secretary of the State shall give notice of such special session by mailing a true copy of the call of such special session, by registered or certified mail, return receipt requested, to each member of the House of Representatives and of the Senate at his or her address as it appears upon the records of said secretary not less than ten or more than fifteen days prior to the date of convening of such special session or by causing a true copy of the call to be delivered to each member by a constable, state policeman or indifferent person at least twenty-four hours prior to the time of convening of such special session.

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(2) Not later than twenty days after a probate redistricting plan is filed with said clerks, the General Assembly shall convene to consider legislation to implement such plan.

(3) If the General Assembly fails to enact legislation to implement such plan not later than thirty days after the plan is filed with the clerks of the House of Representatives and the Senate, or if the Governor fails to approve any legislation enacted under this section, the probate redistricting commission shall reconvene for the purpose of developing a revised probate redistricting plan. Such revised probate redistricting plan shall meet the criteria set forth in subsection (a) of this section and shall be filed with the clerk of the House of Representatives and the clerk of the Senate not later than thirty days after the prior plan failed to be enacted or approved. Upon the filing of a revised probate redistricting plan with said clerks, the speaker of the House of Representatives and the president pro tempore of the Senate shall convene the General Assembly pursuant to subdivision (2) of this subsection or, if the House of Representatives or the Senate has adjourned the special session convened pursuant to subdivision (1) of this subsection, convene the General Assembly in special session in the manner set forth in subdivision (1) of this subsection. The revised probate redistricting plan shall be considered and transmitted in the manner set forth in subdivisions (2) to (4), inclusive, of this subsection.

(4) The probate redistricting commission shall terminate on the date a redistricting plan is enacted by the General Assembly and approved by the Governor, or February 3, 2010, whichever is earlier.

Sec. 23. Section 45a-55 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 5, 2011*):

(a) Any claim for a pension or any other benefit which may become available in accordance with the provisions of sections 45a-1 to 45a-12, inclusive, 45a-18 to 45a-26, inclusive, as amended by this act, 45a-34 to

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45a-56, inclusive, as amended by this act, 45a-62 to 45a-68, inclusive, 45a-74 to 45a-83, inclusive, as amended by this act, 45a-90 to [45a-94] 45a-93, inclusive, as amended by this act, 45a-98, 45a-99, 45a-105, 45a-119 to 45a-123, inclusive, as amended by this act, 45a-128, 45a-130, 45a-131, 45a-133, 45a-199 and 45a-202, may be submitted in writing to the commission. Any such claim will be reviewed and decided by the commission. The claimant shall be advised of the processing status of his claim upon reasonable request.

(b) If any claim is denied, a claimant may request that the decision be reviewed and reconsidered by the commission. Thereafter, any contested case shall be heard and decided in accordance with chapter 54.

Sec. 24. Section 45a-189 of the general statutes is repealed. (*Effective October 1, 2009*)

Sec. 25. Section 45a-94 of the general statutes is repealed. (*Effective January 5, 2011*)

Approved June 9, 2009