



House of Representatives

General Assembly

File No. 730

January Session, 2009

Substitute House Bill No. 6027

House of Representatives, April 20, 2009

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROBATE COURT REFORMS.

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

1 Section 1. Section 45a-36a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 [Any] (a) A judge of probate in office on or after October 1, 1997, but
4 prior to the effective date of this section, whose probate district is
5 merged with another probate district prior to the effective date of this
6 section and who [has not been] is not thereafter elected [to a term
7 which begins at the time of, or subsequent to, such consolidation,] as a
8 judge of probate (1) may elect to receive four years of credited service,
9 as defined in subdivision (2) of section 45a-34, (2) may elect to receive a
10 reduction of his or her retirement age of not more than four years
11 pursuant to subsection (a) of section 45a-36₂ or (3) may elect any
12 combination of subdivisions (1) and (2) of this section, provided such
13 combination shall not exceed four years in total. A judge of probate
14 may elect to receive retirement benefits under this subsection at any
15 time once the judge becomes eligible to retire and receive retirement

16 benefits. A judge of probate entitled to receive benefits under this
17 subsection is not required to elect to retire at the time of a merger or
18 elimination affecting the judge's probate district. A judge of probate
19 subject to this subsection shall not be disqualified from receiving
20 benefits under this subsection due to the judge's employment,
21 subsequent to such district merger or elimination, in a probate court in
22 a capacity other than as a judge of probate.

23 (b) (1) A judge of probate in office on or after the effective date of
24 this section, but prior to January 5, 2011, whose probate district is
25 merged with another probate district on or after the effective date of
26 this section but prior to January 5, 2011, or whose probate district is
27 eliminated on or after the effective date of this section but prior to
28 January 5, 2011, and who is not thereafter elected as a judge of probate
29 (A) may elect to receive six years of credited service, as defined in
30 subdivision (2) of section 45a-34, (B) may elect to receive a reduction of
31 his or her retirement age of not more than six years pursuant to
32 subsection (a) of section 45a-36, or (C) may elect any combination of
33 subparagraphs (A) and (B) of this subdivision, provided such
34 combination shall not exceed six years in total. A judge of probate may
35 elect to receive retirement benefits under this subdivision at any time
36 once the judge becomes eligible to retire and receive retirement
37 benefits. A judge of probate entitled to receive benefits under this
38 subdivision is not required to elect to retire at the time of a merger or
39 elimination affecting the judge's probate district. A judge of probate
40 subject to this subdivision shall not be disqualified from receiving
41 benefits under this subdivision due to the judge's employment,
42 subsequent to such district merger or elimination, in a probate court in
43 a capacity other than as a judge of probate.

44 (2) An employee of a probate court employed on or after the
45 effective date of this section, which probate court is merged with
46 another probate district prior to January 5, 2011, or an employee of a
47 probate court employed on or after the effective date of this act in a
48 probate district that is eliminated prior to January 5, 2011, and is not
49 thereafter employed by another probate court (A) may elect to receive

50 six years of credited service, as defined in subdivision (2) of section
51 45a-34, (B) may elect to receive a reduction of the employee's
52 retirement age of not more than six years pursuant to subsection (a) of
53 section 45a-36, or (C) may elect any combination under subparagraphs
54 (A) and (B) of this subdivision, provided such combination shall not
55 exceed six years in total.

56 (c) (1) A judge of probate in office on or after January 5, 2011, whose
57 probate district is merged with another probate district on or after
58 January 5, 2011, or whose probate district is eliminated on or after
59 January 5, 2011, and who is not thereafter elected as a judge of probate
60 (A) may elect to receive four years of credited service, as defined in
61 subdivision (2) of section 45a-34, (B) may elect to receive a reduction of
62 his or her retirement age of not more than four years pursuant to
63 subsection (a) of section 45a-36, or (C) may elect any combination of
64 subparagraphs (A) and (B) of this subdivision, provided such
65 combination shall not exceed four years in total. A judge of probate
66 may elect to receive retirement benefits under this subdivision at any
67 time once the judge becomes eligible to retire and receive retirement
68 benefits. A judge of probate entitled to receive benefits under this
69 subdivision is not required to elect to retire at the time of a merger or
70 elimination affecting the judge's probate district. A judge of probate
71 subject to this subdivision shall not be disqualified from receiving
72 benefits under this subdivision due to the judge's employment,
73 subsequent to such district merger or elimination, in a probate court in
74 a capacity other than as a judge of probate.

75 (2) An employee of a probate court employed on or after January 5,
76 2011, which probate court is merged with another probate district on
77 or after January 5, 2011, or who is employed on or after January 5,
78 2011, in a probate district that is eliminated on or after January 5, 2011,
79 and is not thereafter employed by another probate court (A) may elect
80 to receive four years of credited service, as defined in subdivision (2) of
81 section 45a-34, (B) may elect to receive a reduction of the employee's
82 retirement age of not more than four years pursuant to subsection (a)
83 of section 45a-36, or (C) may elect any combination under

84 subparagraphs (A) and (B) of this subdivision, provided such
85 combination shall not exceed four years in total.

86 Sec. 2. Subsection (b) of section 45a-77 of the general statutes is
87 repealed and the following is substituted in lieu thereof (*Effective from*
88 *passage*):

89 (b) (1) The Probate Court Administrator may issue and shall enforce
90 regulations, provided such regulations are approved in accordance
91 with subsection (c) of this section. Such regulations shall be binding on
92 all courts of probate and shall concern the following matters for the
93 administration of the probate court system: (A) Auditing, accounting,
94 statistical, billing, recording, filing and other court procedures; (B)
95 reassignment and transfer of cases; (C) training of court personnel and
96 continuing education programs for judges of probate and court
97 personnel; (D) remitting funds received by the courts of probate under
98 section 8 of this act to the Probate Court Administration Fund; (E)
99 administering the compensation plan established under section 9 of
100 this act for employees of the courts of probate; (F) establishing staffing
101 levels for the courts of probate; (G) developing and approving
102 miscellaneous office budgets for the courts of probate; (H) expending
103 funds from the Probate Court Administration Fund for the purposes
104 set forth in the regulations adopted pursuant to subparagraphs (D) to
105 (G), inclusive, of this subdivision; and [(D)] (I) the enforcement of the
106 provisions of this chapter and the regulations issued pursuant to this
107 section, including, but not limited to, recovery of expenses associated
108 with any such enforcement, as permitted by such regulations.

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

115 Sec. 3. Section 45a-82 of the general statutes is repealed and the
116 following is substituted in lieu thereof (*Effective January 1, 2011*):

117 (a) The Probate Court Administration Fund is established, to consist
118 of the amounts hereinafter provided, to be paid over as herein
119 provided to the State Treasurer.

120 (b) The State Treasurer shall be the custodian of the fund, with
121 power to administer it, and to invest and reinvest as much of said fund
122 as is not required for current disbursements in accordance with the
123 provisions of the general statutes regarding the investment of savings
124 banks.

125 (c) All payments from said fund authorized by sections 5-259, as
126 amended by this act, 17a-77, 17a-274, 17a-498, 17a-510, 19a-131b, 19a-
127 131e, 19a-221, 45a-1 to 45a-12, inclusive, 45a-18 to 45a-26, inclusive,
128 45a-34 to 45a-56, inclusive, as amended by this act, 45a-62 to 45a-68,
129 inclusive, 45a-74 to 45a-83, inclusive, as amended by this act, 45a-90 to
130 [45a-94] 45a-93, inclusive, as amended by this act, 45a-98, 45a-99, 45a-
131 105, 45a-119 to 45a-123, inclusive, 45a-128, 45a-130, 45a-131, 45a-133,
132 45a-152, 45a-175 to 45a-180, inclusive, 45a-199, section 9 of this act and
133 section 45a-202, shall be made upon vouchers approved by the Probate
134 Court Administrator.

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

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

147 (f) In addition to the [aforesaid] payments authorized in subsections
148 (a) to (e), inclusive, of this section, there shall be transferred from time

149 to time from the fund established by this section to the retirement fund
150 established by section 45a-35 such amounts as are determined by the
151 Probate Court Administrator not to be required for other purposes of
152 sections 45a-20 and 45a-76 to 45a-83, inclusive, as amended by this act,
153 until the Retirement Commission certifies that the retirement fund is
154 on a sound actuarial basis. Thereafter there shall be transferred from
155 time to time from the fund established by this section to the General
156 Fund such amounts as are determined by the Probate Court
157 Administrator not to be required for the purposes of said sections.

158 (g) If at any time thereafter the Retirement Commission certifies that
159 the retirement fund established by section 45a-35 is no longer on a
160 sound actuarial basis, transfers from [this] the fund established by this
161 section to the retirement fund shall be resumed until the Retirement
162 Commission again certifies that said retirement fund is on a sound
163 actuarial basis, at which time transfers from [this] the fund established
164 by this section to the General Fund shall be resumed.

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

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

175 (j) [In the event that any court of probate otherwise receives income
176 which is insufficient to meet, on an ongoing basis, the reasonable and
177 necessary financial needs of that court, including the salaries of the
178 judge and the judge's staff, there] There shall be transferred from time
179 to time from the Probate Court Administration Fund such amounts as
180 are determined by the Probate Court Administrator to be reasonable
181 and necessary for the proper administration of each [such] court of

182 probate. [Except as provided in subsection (k) of section 45a-92, the
183 judge's annual salary shall not exceed the average annual salary of
184 such judge for the three-year period next preceding the request for
185 financial assistance or the product resulting from the multiplication of
186 fifteen dollars by the annual weighted-workload of the court, as
187 defined in subsection (c) of section 45a-92, whichever is greater, but
188 not to exceed the annual compensation provided in subsection (k) of
189 section 45a-92.

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

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

202 Sec. 4. Section 45a-92 of the general statutes is amended by adding
203 subsection (l) as follows (*Effective January 5, 2011*):

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

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

208 (a) If a judge of probate leaves office or dies while in office, the
209 successor to such judge in said office [,] shall pay to such judge or the
210 personal representative of a deceased judge [,] a sum representing the
211 accounts receivable for payments due the court in accordance with
212 section 45a-105, as of the date of separation from said office or the date

213 of death in the case of a judge who dies while holding such office.
214 Determination of the basis for such accounts receivable including
215 computation for work in process shall be made in accordance with
216 regulations issued by the Probate Court Administrator. Any payments
217 made to such judge or the personal representative of a deceased judge
218 shall be subject to the provisions of section 45a-92, as amended by this
219 act, and no such payments shall be made unless and until the accounts
220 receivable are collected by the successor judge and no such payments
221 shall be made except within the time for filing a statement signed
222 under penalty of false statement showing the actual gross receipts of
223 the itemized costs of the office in accordance with said section 45a-92,
224 as amended by this act. There may be deducted from any such
225 amounts by a successor judge the cost of collection thereof, and any
226 expenses directly attributable to the outgoing judge's or deceased
227 judge's term of office paid by the successor judge. In no event shall any
228 such payments exceed the maximums allowable under the provisions
229 of said section 45a-92, as amended by this act, in any one calendar
230 year, and in the aggregate in no event shall the total payments payable
231 under this section exceed one hundred per cent of the average final
232 compensation for such judge as defined in subdivision (1) of section
233 45a-34, except that such allowable maximum payment shall not
234 include any amounts of money due and payable to the judge at the
235 time of separation from the court or at the time of such judge's death
236 for amounts advanced by such judge to the court for operating
237 expenses and not previously repaid, which amounts may be paid to
238 such judge or personal representative upon receipt of satisfactory
239 proof of the existence of balances due.

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

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

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

249 Sec. 6. Section 45a-106 of the general statutes is repealed and the
250 following is substituted in lieu thereof (*Effective January 5, 2011*):

251 The basic costs payable to courts of probate for any proceeding
252 other than in connection with the settlement of the estate of a deceased
253 person or periodic accounts of trustees, guardians, conservators or
254 other fiduciaries shall be as follows:

255 (1) Except for such proceedings for which basic costs are specified in
256 subdivision (7) or (8) of this section or are otherwise specified or
257 exempted in section 45a-111 or elsewhere in the general statutes, there
258 shall be payable to the Court of Probate with respect to each
259 application, petition or motion filed with the court to commence a
260 matter before it, an entry fee of one hundred fifty dollars which shall
261 be paid by the person making the application, petition or motion.

262 (2) On each matter commenced by the court on its own motion, an
263 entry fee of one hundred fifty dollars shall be payable by an interested
264 party as determined by the court.

265 (3) If more than one hearing is held in any matter so entered, an
266 additional charge of twenty-five dollars shall be payable to the court
267 by the party paying the entry fee in the matter, or, in the discretion of
268 the court, by any interested party against whom the court shall assess
269 such additional charge.

270 (4) If the total time of any one hearing in the matter exceeds one
271 hour, an additional charge of twenty-five dollars per hour for each
272 hour in excess of the first hour shall be payable to the court by the
273 party paying the entry fee in the matter, or, in the discretion of the
274 court, by any interested party against whom the court shall assess the
275 additional charge, provided the additional charge in any matter, other
276 than an appeal heard by a special assignment probate judge under

277 section 45a-186, as amended by this act, shall not exceed three hundred
278 dollars.

279 (5) For purposes of establishing charges payable to courts of probate
280 hereunder, all applications, petitions and motions filed and
281 proceedings thereunder, in connection with a matter which has been
282 entered as above, which are necessary to enter a final decree in and are
283 incidental to the action of the court being sought in the matter so
284 entered shall be covered by the entry fee and by any additional charge
285 under subdivisions (3) and (4) of this section that may have become
286 payable in such matter. No additional charges under this section shall
287 be made for any such incidental applications, petitions or motions,
288 provided once a final decree is entered in any matter and, thereafter,
289 additional action or actions are sought in the court in connection
290 therewith, such additional action or actions shall be treated as a new
291 matter hereunder.

292 (6) For the purpose of sections 45a-106 to 45a-112, inclusive, as
293 amended by this act, there shall be a charge of fifty dollars for an
294 appeal which shall be payable to the court by the appellant.

295 (7) For proceedings brought under section 46b-30, the cost shall be
296 twenty-five dollars.

297 (8) For filing a will in the Probate Court, the cost shall be five
298 dollars. For filing any other document in the probate court under the
299 provisions of any statute if the court is not required to take any action,
300 the cost shall be twenty-five dollars, in addition to any applicable
301 recording charge. The cost shall be payable by the person filing such
302 document.

303 (9) A charge of fifty dollars plus the actual costs of rescheduling the
304 adjourned hearing shall be payable to the court by any party who
305 requests an adjournment of a scheduled hearing or whose failure to
306 appear necessitates an adjournment, provided the court, for cause
307 shown, may waive either the charge or the costs, or both.

308 (10) In an appeal heard by a special assignment probate judge under
309 section 45a-186, as amended by this act, a fee of two hundred fifty
310 dollars shall be payable to the court of probate from which the appeal
311 is taken at the time of filing the appeal in the matter.

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

315 (g) Notwithstanding the provisions of subsection (a) of this section,
316 the Probate Court Administration Fund established in accordance with
317 section 45a-82, as amended by this act, shall pay for each probate judge
318 [and Probate Court employee] in a court of probate that is open to the
319 public for the conduct of court business in accordance with section 45a-
320 79c, and each probate court employee not more than one hundred per
321 cent of the portion of the premium charged for [his or her] the judge's
322 or employee's individual coverage and not more than fifty per cent of
323 any additional cost for [his or her] the judge's or employee's form of
324 coverage. The remainder of the premium for such coverage shall be
325 paid by the probate judge or [Probate Court] probate court employee
326 to the State Treasurer. Payment shall be credited by the State Treasurer
327 to the fund established by section 45a-82, as amended by this act. The
328 total premiums payable shall be remitted by the Probate Court
329 Administrator directly to the insurance company or companies or
330 nonprofit organization or organizations providing the coverage. The
331 Probate Court Administrator shall issue regulations governing group
332 hospitalization and medical and surgical insurance pursuant to
333 subdivision (1) of subsection (b) of section 45a-77, as amended by this
334 act.

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

341 Sec. 9. (NEW) (*Effective from passage*) (a) The Probate Court
342 Administrator shall establish a Probate Budget Committee consisting
343 of the Probate Court Administrator and two judges of probate
344 appointed by the Probate Assembly. The Probate Court Administrator
345 shall serve as chairperson of the committee.

346 (b) The committee shall establish (1) a compensation plan, which
347 plan shall include employee benefits, for employees of the courts of
348 probate, (2) staffing levels for each court of probate, and (3) a
349 miscellaneous office budget for each court of probate. Such plan,
350 staffing level and budget shall be binding on each court of probate and
351 shall be administered by the Probate Court Administrator.

352 Sec. 10. (NEW) (*Effective January 5, 2011*) As used in this section and
353 section 11 of this act:

354 (1) "Band 1 probate district" means a probate district that has a
355 population of four thousand nine hundred ninety-nine or fewer
356 persons.

357 (2) "Band 2 probate district" means a probate district that has a
358 population of at least five thousand but less than ten thousand, except
359 that a probate district with less than five thousand persons with an
360 annual weighted-workload of at least five hundred, but less than nine
361 hundred, shall be a band 2 probate district.

362 (3) "Band 3 probate district" means a probate district that has a
363 population of at least ten thousand but less than fifteen thousand,
364 except that a probate district with less than ten thousand persons with
365 an annual weighted-workload of at least nine hundred, but less than
366 one thousand three hundred shall be a band 3 probate district.

367 (4) "Band 4 probate district" means a probate district that has a
368 population of at least fifteen thousand but less than twenty thousand,
369 except that a probate district with less than fifteen thousand persons
370 with an annual weighted-workload of at least one thousand three
371 hundred, but less than one thousand seven hundred, shall be a band 4

372 probate district.

373 (5) "Band 5 probate district" means a probate district that has a
374 population of at least twenty thousand but less than twenty-five
375 thousand, except that a probate district with less than twenty thousand
376 persons with an annual weighted-workload of at least one thousand
377 seven hundred, but less than two thousand one hundred, shall be a
378 band 5 probate district.

379 (6) "Band 6 probate district" means a probate district that has a
380 population of at least twenty-five thousand but less than thirty
381 thousand, except that a probate district with less than twenty-five
382 thousand persons with an annual weighted-workload of at least two
383 thousand one hundred, but less than two thousand five hundred, shall
384 be a band 6 probate district.

385 (7) "Band 7 probate district" means a probate district that has a
386 population of at least thirty thousand but less than forty thousand,
387 except that a probate district with less than thirty thousand persons
388 with an annual weighted-workload of at least two thousand five
389 hundred, but less than three thousand three hundred, shall be a band 7
390 probate district.

391 (8) "Band 8 probate district" means a probate district that has a
392 population of at least forty thousand but less than fifty thousand,
393 except that a probate district with less than forty thousand persons
394 with an annual weighted-workload of at least three thousand three
395 hundred, but less than four thousand one hundred, shall be a band 8
396 probate district.

397 (9) "Band 9 probate district" means a probate district that has a
398 population of at least fifty thousand but less than sixty thousand,
399 except that a probate district with less than fifty thousand persons with
400 an annual weighted-workload of at least four thousand one hundred,
401 but less than four thousand nine hundred, shall be a band 9 probate
402 district.

403 (10) "Band 10 probate district" means a probate district that has a
404 population of sixty thousand or more, except that a probate district
405 with less than sixty thousand persons with an annual weighted-
406 workload of at least four thousand nine hundred shall be a band 10
407 probate district.

408 (11) "Population" means the population reported in the State
409 Register and Manual for the immediately preceding calendar year.

410 (12) "Annual weighted-workload" means the annual weighted-
411 workload for the immediately preceding fiscal year as defined by
412 regulations adopted by the Probate Court Administrator pursuant to
413 subdivision (3) of subsection (b) of section 45a-77 of the general
414 statutes, as amended by this act.

415 Sec. 11. (NEW) (*Effective January 5, 2011*) (a) Notwithstanding any
416 provision of title 45a of the general statutes concerning compensation,
417 and subject to the provisions of subsections (b) to (e), inclusive, of this
418 section, compensation for judges of probate shall be determined as
419 follows:

420 (1) A judge of probate who serves a band 1 probate district shall
421 receive annual compensation equal to ten per cent of the compensation
422 of a judge of the superior court as set forth in subsection (a) of section
423 51-47 of the general statutes.

424 (2) A judge of probate who serves a band 2 probate district shall
425 receive annual compensation equal to twenty per cent of the
426 compensation of a judge of the superior court as set forth in subsection
427 (a) of section 51-47 of the general statutes.

428 (3) A judge of probate who serves a band 3 probate district shall
429 receive annual compensation equal to thirty per cent of the
430 compensation of a judge of the superior court as set forth in subsection
431 (a) of section 51-47 of the general statutes.

432 (4) A judge of probate who serves a band 4 probate district shall
433 receive annual compensation equal to thirty-five per cent of the

434 compensation of a judge of the superior court as set forth in subsection
435 (a) of section 51-47 of the general statutes.

436 (5) A judge of probate who serves a band 5 probate district shall
437 receive annual compensation equal to forty per cent of the
438 compensation of a judge of the superior court as set forth in subsection
439 (a) of section 51-47 of the general statutes.

440 (6) A judge of probate who serves a band 6 probate district shall
441 receive annual compensation equal to forty-five per cent of the
442 compensation of a judge of the superior court as set forth in subsection
443 (a) of section 51-47 of the general statutes.

444 (7) A judge of probate who serves a band 7 probate district shall
445 receive annual compensation equal to fifty per cent of the
446 compensation of a judge of the superior court as set forth in subsection
447 (a) of section 51-47 of the general statutes.

448 (8) A judge of probate who serves a band 8 probate district shall
449 receive annual compensation equal to fifty-five per cent of the
450 compensation of a judge of the superior court as set forth in subsection
451 (a) of section 51-47 of the general statutes.

452 (9) A judge of probate who serves a band 9 probate district shall
453 receive annual compensation equal to sixty-five per cent of the
454 compensation of a judge of the superior court as set forth in subsection
455 (a) of section 51-47 of the general statutes.

456 (10) A judge of probate who serves a band 10 probate district shall
457 receive annual compensation equal to seventy-five per cent of the
458 compensation of a judge of the superior court as set forth in subsection
459 (a) of section 51-47 of the general statutes.

460 (b) Notwithstanding the provisions of subsection (a) of this section,
461 a judge of probate who serves in a probate district that consists of four
462 or more towns shall be compensated at a band one level higher than
463 the band the judge otherwise would be placed in under section 10 of
464 this act.

465 (c) Notwithstanding the provisions of subsection (a) of this section,
466 no judge of probate in office at any time during the period beginning
467 January 5, 2011, and ending January 6, 2015, may receive
468 compensation under subsection (a) of this section that is greater than
469 the average annual compensation for a judge serving in such probate
470 district for the three-year period from January 1, 2008, to December 31,
471 2010, inclusive. The provisions of this subsection shall not apply to the
472 compensation of a judge of probate whose district results from a
473 merger that becomes effective on January 5, 2011.

474 (d) Notwithstanding the provisions of subsection (a) of this section,
475 no judge of probate in office on January 4, 2011, may, for the term of
476 office beginning January 5, 2011, and ending January 6, 2015, receive
477 compensation under subsection (a) of this section that is less than
478 eighty per cent of the average annual compensation for a judge of
479 probate serving in such probate district for the three-year period from
480 January 1, 2008, to December 31, 2010, inclusive. The provisions of this
481 subsection shall not apply to the compensation of a judge of probate
482 whose district results from a merger that becomes effective on January
483 5, 2011, or to any person first elected to serve as a judge of probate for
484 a term beginning on or after January 5, 2011.

485 (e) For any calendar year, compensation of any judge of probate
486 who assumes office or ceases to hold office during such calendar year
487 shall be determined by multiplying the judge's annual compensation
488 determined in accordance with subsections (a) to (d), inclusive, of this
489 section by a fraction with the number of days served during the
490 calendar year as the numerator of the fraction and three hundred sixty-
491 five as the denominator of the fraction.

492 Sec. 12. Section 45a-186 of the general statutes is repealed and the
493 following is substituted in lieu thereof (*Effective January 5, 2011*):

494 (a) Any person aggrieved by any order, denial or decree of a court
495 of probate in any matter, unless otherwise specially provided by law,
496 may, not later than forty-five days after the mailing of an order, denial
497 or decree for a matter heard under any provision of section 45a-593,

498 45a-594, 45a-595 or 45a-597, sections 45a-644 to 45a-677, inclusive, or
499 sections 45a-690 to 45a-705, inclusive, and not later than thirty days
500 after mailing of an order, denial or decree for any other matter in a
501 court of probate, appeal therefrom to the Superior Court. Such an
502 appeal shall be commenced by filing a complaint in the superior court
503 in the judicial district in which such court of probate is located, except
504 that (1) an appeal under subsection (b) of section 12-359, subsection (b)
505 of section 12-367 or subsection (b) of section 12-395 shall be filed in the
506 judicial district of Hartford, and (2) an appeal in a matter concerning
507 removal of a parent as guardian, termination of parental rights or
508 adoption shall be filed in the superior court for juvenile matters having
509 jurisdiction over matters arising in such probate district. The complaint
510 shall state the reasons for the appeal. A copy of the order, denial or
511 decree appealed from shall be attached to the complaint. Appeals from
512 any decision rendered in any case after a recording is made of the
513 proceedings under section 17a-498, 17a-685, 45a-650, 51-72 or 51-73
514 shall be on the record and shall not be a trial de novo.

515 (b) Each person who files an appeal pursuant to this section shall
516 serve a copy of the complaint on the court of probate that rendered the
517 order, denial or decree appealed from and on each interested party.
518 The failure of any person to make such service shall not deprive the
519 Superior Court of jurisdiction over the appeal. Notwithstanding the
520 provisions of section 52-50, service of the copy of the complaint shall
521 be by state marshal, constable or an indifferent person. Service shall be
522 in hand or by leaving a copy at the court of probate that rendered the
523 order being appealed, or by leaving a copy at the place of residence of
524 the interested party being served or at the address for the interested
525 party on file with said court of probate, except that service on a
526 respondent or conserved person in an appeal from an action under
527 part IV of chapter 802h shall be in hand by a state marshal, constable
528 or an indifferent person.

529 (c) Not later than fifteen days after a person files an appeal under
530 this section, the person who filed the appeal shall file or cause to be
531 filed with the clerk of the Superior Court a document containing (1) the

532 name, address and signature of the person making service, and (2) a
533 statement of the date and manner in which a copy of the complaint
534 was served on the court of probate and each interested party.

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

538 (e) A hearing in an appeal from probate proceedings under section
539 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685,
540 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699,
541 45a-703 or 45a-717 shall commence, unless a stay has been issued
542 pursuant to subsection (f) of this section, not later than ninety days
543 after the appeal has been filed.

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

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

554 (h) (1) Except for matters described in subdivision (3) of this
555 subsection, in any appeal filed under this section, the appeal may be
556 referred by the Superior Court to a special assignment probate judge
557 appointed in accordance with section 45a-79b, who is assigned by the
558 Probate Court Administrator for the purposes of such appeal, except
559 that any party may file a demand in writing with the Superior Court
560 that such appeal be heard by the Superior Court. Any such demand
561 shall be filed no later than twenty days after the return date.

562 (2) An appeal referred to a special assignment probate judge

563 pursuant to this subsection shall proceed in accordance with the rules
564 for references set forth in the rules of the judges of the superior court,
565 except that such appeal shall be de novo and shall be heard on the
566 record.

567 (3) The following matters shall not be referred to a special
568 assignment probate judge pursuant to this subsection: Appeals under
569 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to
570 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,
571 inclusive, children's matters as defined in subsection (a) of section 45a-
572 8a, sections 45a-644 to 45a-663, inclusive, 45a-668 to 45a-684, inclusive,
573 and 45a-690 to 45a-700, inclusive, and any matter in a court of probate
574 heard on the record in accordance with sections 51-72 and 51-73.

575 Sec. 13. (*Effective from passage*) (a) (1) The Probate Court
576 Administrator shall establish a probate court planning committee for
577 each of the nine probate regions established by the Probate Court
578 Administrator.

579 (2) Each probate court planning committee shall consist of the
580 following members:

581 (A) Each judge of probate from each probate district within the
582 probate region;

583 (B) Three clerks of probate from among the probate districts within
584 the probate region, each of whom shall be appointed by the
585 Connecticut Association of Probate Clerks;

586 (C) The chief executive officer of each municipality in the probate
587 region, or such officer's designee;

588 (D) Two attorneys residing in the probate region, one appointed by
589 the executive committee of the Estates and Probate Section of the
590 Connecticut Bar Association, and one appointed by the executive
591 committee of the Elder Law Section of the Connecticut Bar Association;

592 (E) One member appointed by the Connecticut Council of Small

593 Towns;

594 (F) One member appointed by the Connecticut Conference of
595 Municipalities; and

596 (G) Five members of the public, one appointed by the Governor, one
597 appointed by the president pro tempore of the Senate, one appointed
598 by the speaker of the House of Representatives, one appointed by the
599 minority leader of the Senate, and one appointed by the minority
600 leader of the House of Representatives.

601 (3) The Probate Court Administrator or the administrator's designee
602 shall be an ex-officio member of each probate court planning
603 committee without vote. The regional coordinator for each probate
604 region shall chair each probate court planning committee. The Probate
605 Court Administrator shall coordinate the activities of, and provide
606 administrative support to, the probate court planning committees.

607 (b) Each probate court planning committee shall explore
608 opportunities to establish local regional probate districts to increase
609 public access to the courts, considering, among other things, the
610 availability of municipal facilities for a court in a regional probate
611 district, communities of interest among the municipalities that might
612 join or form a regional probate district and populations served.

613 (c) Each probate court planning committee shall submit a report to
614 the joint standing committees of the General Assembly having
615 cognizance of matters relating to the judiciary and appropriations, in
616 accordance with section 11-4a of the general statutes, not later than
617 November 15, 2009, that contains the committee's recommendations
618 for establishment of local regional probate districts effective not later
619 than January 5, 2011.

620 Sec. 14. Section 45a-55 of the general statutes is repealed and the
621 following is substituted in lieu thereof (*Effective January 5, 2011*):

622 (a) Any claim for a pension or any other benefit which may become
623 available in accordance with the provisions of sections 45a-1 to 45a-12,

624 inclusive, 45a-18 to 45a-26, inclusive, 45a-34 to 45a-56, inclusive, as
 625 amended by this act, 45a-62 to 45a-68, inclusive, 45a-74 to 45a-83,
 626 inclusive, as amended by this act, 45a-90 to [45a-94] 45a-93, inclusive,
 627 as amended by this act, 45a-98, 45a-99, 45a-105, 45a-119 to 45a-123,
 628 inclusive, 45a-128, 45a-130, 45a-131, 45a-133, 45a-199 and 45a-202, may
 629 be submitted in writing to the commission. Any such claim will be
 630 reviewed and decided by the commission. The claimant shall be
 631 advised of the processing status of his claim upon reasonable request.

632 (b) If any claim is denied, a claimant may request that the decision
 633 be reviewed and reconsidered by the commission. Thereafter, any
 634 contested case shall be heard and decided in accordance with chapter
 635 54.

636 Sec. 15. (*Effective from passage*) The sum of four million dollars is
 637 appropriated to the Office of the Probate Court Administrator, from
 638 the General Fund, for the fiscal year ending June 30, 2010, and the sum
 639 of eight million four hundred thousand dollars is appropriated to the
 640 Office of the Probate Court Administrator, from the General Fund, for
 641 the fiscal year ending June 30, 2011, for the purpose of covering
 642 probate court expenses of persons who use the probate court system
 643 who are otherwise unable to pay, and for the cost of probate court
 644 retirees' health insurance.

645 Sec. 16. Section 45a-94 of the general statutes is repealed. (*Effective*
 646 *January 5, 2011*)

647 Sec. 17. Section 45a-189 of the general statutes is repealed. (*Effective*
 648 *October 1, 2009*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	45a-36a
Sec. 2	<i>from passage</i>	45a-77(b)
Sec. 3	<i>January 1, 2011</i>	45a-82
Sec. 4	<i>January 5, 2011</i>	45a-92
Sec. 5	<i>from passage</i>	45a-93

Sec. 6	<i>January 5, 2011</i>	45a-106
Sec. 7	<i>January 5, 2011</i>	5-259(g)
Sec. 8	<i>January 1, 2011</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>January 5, 2011</i>	New section
Sec. 11	<i>January 5, 2011</i>	New section
Sec. 12	<i>January 5, 2011</i>	45a-186
Sec. 13	<i>from passage</i>	New section
Sec. 14	<i>January 5, 2011</i>	45a-55
Sec. 15	<i>from passage</i>	New section
Sec. 16	<i>January 5, 2011</i>	Repealer section
Sec. 17	<i>October 1, 2009</i>	Repealer section

Statement of Legislative Commissioners:

Section 11(b) was changed to reference section 10 of this act for accuracy.

JUD *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Probate Court	PCAF - See Below	See Below	See Below
Probate Court	Probate Judges' and Employees' Retirement Fund - See Below	See Below	See Below
Resources of the General Fund	GF - Cost	\$4.0 million	\$8.4 million

Note: PCAF=Probate Court Administration Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill makes a number of changes to the probate court system, including compensation structure, retirement credits, probate appeals, and budgeting. It also establishes a committee charged with examining and making recommendations for regionalizing and consolidating probate districts. This results in a potential savings to the Probate Court Administration Fund (PCAF) and a potential cost to the Probate Judges' and Employees' Retirement Fund. It also results in a cost to the General Fund of \$4.0 million in FY 10 and \$8.4 million in FY 11.

Section 1 increases from four years to six years the retirement credit to probate judges whose districts are merged by January 5, 2011 and who have not been elected subsequently. It also extends this retirement credit to any employee of the probate court. To the extent that mergers and consolidations are undertaken as a result of the bill, there is a cost to the Probate Judges' and Employees' Retirement Fund. This fund consists of regular payments made by judges and court employees and is currently actuarially sound, though a payment of \$65,000 is anticipated to be required from the PCAF this year due to

the deterioration of assets associated with the current economic downturn.

Section 5 eliminates payments made to any judge who leaves office or dies in office for work performed while in office. This section applies only to judges elected to office on and after January 5, 2011. To the extent that payments that would have been made under this section are no longer made in the future, there is a savings to the PCAF.

Sections 6 and 12 allow a special assignment judge to be assigned, at the discretion of the Superior Court, to hear probate appeals. There is a \$250 fee established for such an appeal, and as such it is not anticipated that this would result in an additional cost to the PCAF. Any workload decrease to the Superior Court under these sections would have no fiscal impact to the Judicial Department.

Section 9 centralizes the budget function of the probate court system within the Probate Court Administration. This is estimated to result in a savings of \$300,000-\$350,000 to the probate court system, and \$135,000 to the Probate Court Administration which currently allocates that amount to annual court audits.

Section 10 establishes a range of salaries for probate court judges from \$14,678 to \$110,085 depending on district population and weighted workload of the court. The average compensation of a probate judge is currently \$62,000 annually. Overall savings under this section are dependent on the potential reduction in the number of probate judges as a result of the report of the Planning Committee established under Section 13 of the bill, and as such are indeterminate at this time.

Section 13 establishes a Probate Court Planning Committee for each of the nine probate regions established by the Probate Court Administrator to explore regionalization and consolidation of probate districts. This does not result in any fiscal impact.

Section 15 appropriates \$4.0 million in FY 10 and \$8.4 million in FY 11 from the General Fund to the Office of the Probate Court Administrator. The PCAF is currently projected to experience a negative balance of \$3.9 million in FY 10 and \$12.2 million in FY 11. The General Fund appropriations under this section would alleviate the negative balance in FY 10, and would reduce the projected negative balance to \$3.7 million in FY 11.

The Out Years

The savings associated with centralization of the budget function under the Probate Court Administration would continue into the future subject to inflation. Savings to the Probate Court Administration Fund associated with consolidation are dependent upon the outcome of the regionalization plan established by the Planning Committee and as such are indeterminate at this time.

OLR Bill Analysis**HB 6027*****AN ACT CONCERNING PROBATE COURT REFORMS.*****SUMMARY:**

Effective January 5, 2011, the bill alters the way probate court judges are compensated by eliminating the current system primarily based on court revenue and instead establishing a system based on population and workload.

The bill requires that the compensation of judges in office on January 4, 2011, for a term beginning January 5, 2011 and ending January 6, 2015, be at least 80% of the average annual compensation the judge received for the three-year period from January 1, 2008 to December 31, 2010.

The bill centralizes control over the operation of each probate court by requiring the Probate Court Administrator to establish a Probate Budget Committee that must establish (1) a compensation plan, which includes employee benefits, for probate court employees; (2) staffing levels for each probate court; and (3) a miscellaneous office budget for each court. The bill makes these binding on the probate courts.

The bill requires the Probate Court Administrator to establish a planning committee for each of nine probate regions he establishes. It requires the committees to seek opportunities to consolidate probate courts into regional probate districts, and to submit a report to the Judiciary and Appropriations committees by November 15, 2009 containing their recommendations for creating regional probate districts by January 5, 2011. It also establishes certain retirement incentives for probate judges and probate court employees.

It permits Superior Court judges to refer certain appeals from

probate court to special assignment probate judges.

The bill appropriates to the Office of the Probate Court Administrator's Office from the General Fund, \$4,000,000 for the fiscal year ending June 30, 2010, and \$8,400,000 for the fiscal year ending June 30, 2011, to cover expenses of people who use the probate court system who are otherwise unable to pay, and for the cost of probate court retirees' health insurance (§ 15).

Finally it makes conforming and technical changes.

EFFECTIVE DATE: January 5, 2011 except the provisions dealing with retirement incentives, the authority of the Probate Court Administrator to adopt certain regulations, compensation of judges who leave office or die while serving in office, probate budget committees, probate court planning committees, and the appropriation, which become effective upon passage; the provisions dealing with the Probate Court Administrator's authority to make transfers from the Probate Court Administration Fund to a probate court, and the duty of each probate court to remit all fees, costs, and other income it receives to the state treasurer for the Probate Court Administration Fund, which become effective on January 1, 2011; and the provision eliminating the right of a person who is appealing from a probate court decision to get a correcting amendment from the court appealed from, which becomes effective October 1, 2009.

§§ 3, 4, 5, 8 — COMPENSATION OF PROBATE COURT JUDGES

Effective January 5, 2005, the bill eliminates the current method of compensating probate court judges, which is primarily based on the fees the court collects, and replaces it with a new system based on population and workload in which a judge's compensation will be paid directly from the Probate Court Administration Fund.

The bill requires that each probate court remit all fees, costs, and other income it receives to the state treasurer to be credited to the Probate Court Administration Fund. (§ 8)

Under current law, the funding of the probate courts, including the compensation of judges, is derived from the statutory fees charged to the users of the court. From these fees, the judge must pay the costs of operating the court, including staff salaries, but excluding the judge's compensation. The net income, after payment of those expenses, is applied to a statutory formula that determines the amount of the assessment the judge must pay into the Probate Court Administration Fund, administered by the treasurer. The judge keeps the balance as compensation. Currently, compensation ranges from under \$10,000 to the maximum of \$110,085. Under current law the maximum amount a probate judge may receive may not exceed 75% of the compensation of a Superior Court judge.

Under current law if any probate court receives income that is insufficient to meet the court's reasonable and necessary financial needs, including the salaries of the judge and the judge's staff, the probate court administrator must transfer from the probate court administration fund whatever he or she determines to be reasonable and necessary to properly administer that court. Also under current law, each judge asking for financial assistance must 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.

The bill instead directs the probate court administrator to transfer whatever funds he or she deems reasonable and necessary to meet each court's needs including salaries for the judge and his or her staff.

The bill eliminates the authority of the probate court administrator to advance temporary funding in the form of a loan for the of the operation of a probate court from the Probate Court Administration Fund for certain reasons (§ 16).

§§ 10 & 11 — Probate Districts-Compensation Bands

The bill establishes 10 classes or "bands" of probate courts. The classification is based on the district's population and its annual

weighted workload.

The bill specifies that “population” is the population reported in the State Register and Manual for the immediately preceding calendar year. “Annual weighted-workload” means the annual weighted-workload for the immediately preceding fiscal year as defined by regulations the probate court administrator adopts pursuant to the bill.

Band 1 Probate District

The bill defines a “Band 1 probate district” as a probate district that has a population of 4,999 or fewer people.

Band 2 Probate District

A “Band 2 probate district” is a probate district with:

1. a population of at least 5,000 but less than 10,000, or
2. fewer than 5,000 people with an annual weighted-workload of 500 to 900.

Band 3 Probate District

A “Band 3 probate district” is a probate district with:

1. a population of at least 10,000 but fewer than 15,000, or
2. fewer than 10,000 people with an annual weighted-workload of 900 to 1,300.

Band 4 Probate District

A “Band 4 probate district” is a probate district with:

1. a population of at least 15,000 but fewer than 20,000, or
2. fewer than 15,000 people with an annual weighted-workload of 1,300 to 1,700.

Band 5 Probate District

A “Band 5 probate district” is a probate district with:

1. a population of at least 20,000 but fewer than 25,000, or
2. fewer than 20,000 people with an annual weighted-workload of 1,700 to 2,100.

Band 6 Probate District

A “Band 6 probate district” is a probate district with:

1. a population of at least 25,000 but fewer than 30,000, or
2. fewer than 25,000 people with an annual weighted-workload of 2,100 to 2,500.

Band 7 Probate District

A “Band 7 probate district” is a probate district with:

1. a population of at least 30,000 but fewer than 40,000, or
2. fewer than 30,000 people with an annual weighted-workload of 2,500 to 3,300.

Band 8 Probate District

A “Band 8 probate district” is a probate district with:

1. a population of at least 40,000 but fewer than 50,000, or
2. fewer than 40,000 people with an annual weighted-workload of 3,300 to 4,100.

Band 9 Probate District

A “Band 9 probate district” is a probate district with:

1. a population of at least 50,000 but fewer than 60,000, or
2. fewer than 50,000 people with an annual weighted-workload of 4,100 to 4,900.

Band 10 Probate District

A “Band 10 probate district” is a probate district with:

1. a population of 60,000 or more, or
2. fewer than 60,000 people with an annual weighted-workload of over 4,900.

The bill requires compensation of probate court judges to be determined by applying a certain percentage to the salary of a Superior Court judge. The percentages range from 10% for a band 1 probate district to 75% for a band 10 district. The percentages are specified in Table 1. The salary of a Superior Court judge is \$146,780.

Table 1: Compensation of Probate Court Judges

Band	Percentage of Superior Court Judge's Salary	Probate Judge's Salary under the Bill based on Current Superior Judge's Salary
1	10%	14,678
2	20%	29,356
3	30%	44,034
4	35%	51,373
5	40%	58,712
6	45%	66,051
7	50%	73,390
8	55%	80,729
9	65%	95,407
10	75%	110,085

Greater Compensation

The bill requires probate judges who serve in a district that consists of at least four towns to be compensated at a band one level higher than the band the judge otherwise would be placed in. Thus, for example, a judge in a band 3 district that consists of four or more towns would receive 35%, instead of 30%, of a Superior Court judge's

salary.

Probate judges in office at any time from January 5, 2011 to January 6, 2015, may receive compensation that is greater than the average annual compensation for a judge serving in such a district for the three-year period from January 1, 2008, to December 31, 2010. This does not apply to the compensation of a judge whose district results from a merger that becomes effective on January 5, 2011.

Minimum Compensation

Under the bill, no probate judge in office on January 4, 2011, may, for the term of office beginning January 5, 2011, and ending January 6, 2015, receive compensation that is less than 80% of the average annual compensation for a judge of probate serving in that probate district for the three-year period from January 1, 2008, to December 31, 2010. This does not apply to a judge whose district results from a merger that becomes effective on January 5, 2011, or to a person first elected to serve as a judge for a term beginning on or after January 5, 2011.

Compensation for Partial Years in Office

The bill requires that for any calendar year, the compensation of any judge who assumes office or ceases to hold office must be determined by multiplying the judge's annual compensation determined in accordance with the bill by a fraction with the number of days served during the calendar year as the numerator and 365 as the denominator.

§ 5 — Compensation of Judges Who Leave Office or Die While in Office

Under current law, if a probate judge leaves office or dies while in office, the judge's successor must pay to such judge or the personal representative of a deceased judge an amount representing the accounts receivable for payments due the court as of the date of separation or death. Determination of the basis for such accounts receivable including computation for work in process must be made in accordance with regulations issued by the probate court administrator.

Under current law, deductions may be made for costs to collect the

amount due the court, and any expenses directly attributable to the outgoing judge's or deceased judge's term of office paid by the successor judge.

The bill limits these requirements to any judge in office on or before January 4, 2011. The bill specifies that these requirements do 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.

On and after January 5, 2011, any payments due a judge who leaves office or dies in office must be paid from the Probate Court Administration Fund.

GREATER CENTRAL AUTHORITY OVER PROBATE COURTS

§ 9 — Probate Budget Committee

The bill requires the probate court administrator to establish a Probate Budget Committee consisting of the probate court administrator and two probate judges appointed by the Probate Assembly. The probate court administrator must serve as chairperson.

The bill requires the committee to establish:

1. a compensation plan, which includes employee benefits, for probate court employees;
2. staffing levels for each probate court; and
3. a miscellaneous office budget for each court.

The bill makes the plan, staffing level, and budget binding on each court of probate and requires the probate court administrator to administer it.

§ 2 — Probate Court Administrator's Authority over Probate Courts

The law authorizes the probate court administrator to issue and enforce regulations binding on probate courts concerning the following matters for the administration of the probate court system:

(1) auditing, accounting, statistical, billing, recording, filing, and other court procedures; (2) reassigning and transferring cases; (3) training of court personnel and continuing education programs for judges of probate and court personnel; and (4) enforcing the provisions of the law dealing with the probate court administrator's powers and duties and the regulations issued pursuant to law, including, but not limited to, recovery of expenses associated with any such enforcement, as permitted by such regulations.

This bill expands the probate court administrator's authority to include adopting regulations concerning:

1. remitting funds received by the probate courts under the bill to the Probate Court Administration Fund;
2. administering the compensation plan the bill establishes;
3. establishing staffing levels for the courts;
4. developing and approving miscellaneous office budgets for the probate courts; and
5. expending funds from the Probate Court Administration Fund for these four additional areas of authority. (see BACKGROUND)

§ 13 — CONSOLIDATION OF PROBATE COURTS-PLANNING COMMITTEES

The bill requires the probate court administrator to establish a Probate Court Planning Committee for each of the nine probate regions the administrator establishes.

The committee consists of:

1. each judge from the probate region;
2. three clerks of probate from among the probate districts within the probate region, each of whom must be appointed by the Connecticut Association of Probate Clerks;

3. the chief executive officer of each municipality in the probate region, or his or her designee;
4. two attorneys residing in the probate region, one appointed by the Connecticut Bar Association's executive committee of the Estates and Probate Section, and one appointed by the executive committee of the Elder Law Section;
5. one member appointed by the Connecticut Council of Small Towns;
6. one member appointed by the Connecticut Conference of Municipalities; and
7. five members of the public, one each appointed by the Governor, the president pro tempore of the Senate, the House speaker, and the minority leaders of the Senate and House.

The probate court administrator or the administrator's designee must be an ex-officio member of each committee without the right to vote. The regional coordinator for each probate region must chair each committee. The probate court administrator must coordinate the activities of, and provide administrative support to, the planning committees.

Local Regional Probate Districts

Each planning committee must look for opportunities to establish local regional probate districts to increase public access to the courts, considering, among other things,

1. the availability of municipal facilities for a court in a regional probate district,
2. communities of interest among the municipalities that might join or form a regional probate district, and
3. populations served.

Required Reports

Each probate court planning committee must submit a report to the Judiciary and Appropriations committees by November 15, 2009 that contains the planning committee's recommendations for creating local regional probate districts by January 5, 2011.

§ 1 — RETIREMENT INCENTIVES

Probate Court Judges

Under current law, a probate judge in office on or after October 1, 1997, whose district is merged with another probate district and who has not been elected to a term which begins at the time of, or after the consolidation, may choose to receive up to

1. four years of credited service,
2. a reduction of his or her retirement age of up to four years, or
3. any combination up to four years in total.

The bill increases the incentive option from up to four years to up to six years credited service or a reduction in retirement age, or a combination of both that does not exceed a total of six years for a probate judge in office on or after the bill's passage, but before January 5, 2011, whose probate district is merged with another district or eliminated on or after the bill's passage but before January 5, 2011, and who is not subsequently elected as a probate judge. The bill maintains the incentive back at four years for a judge in office on or after January 5, 2011, whose probate district is merged or eliminated on or after January 5, 2011, and who is not subsequently elected as a probate judge.

The bill allows a judge to elect to receive retirement benefits at any time once the judge becomes eligible to retire and receive the benefits. It specifies that a judge (1) entitled to receive benefits does not have to elect to retire at the time of a merger or elimination affecting the judge's probate district, and a judge (2) is not disqualified from receiving benefits because of his or her employment, after the district merger or elimination, in a probate court in a capacity other than as a

judge.

Probate Court Employees

The bill establishes retirement incentives for employees of a probate court of

1. up to six years credited service or a reduction of retirement age or both, for employees of a probate court who are employed on or after the bill's passage with a probate court that is merged or eliminated before January 5, 2011 and who is not subsequently employed by another probate court; and
2. up to four years for employees who are employed on or after January 5, 2011 with a court that is merged or eliminated on or after January 5, 2011 and who are not subsequently employed by another probate court.

§ 12 — APPEALS TO SPECIAL ASSIGNMENT PROBATE JUDGES

The law allows anyone aggrieved by a probate court decision to appeal to the Superior Court.

With certain exceptions the bill establishes, the bill allows the Superior Court to refer appeals from a probate court decision to a special assignment probate judge assigned by the probate court administrator for the purposes of such appeals, except that any party may file a demand in writing with the Superior Court that such appeal be heard by the Superior Court. (see BACKGROUND) Any demand must be filed within 20 days after the return date. (A return date in a civil legal proceeding is the date from which all other dates and deadlines for that proceeding are calculated.)

The bill requires that an appeal referred to a special assignment probate judge must proceed in accordance with the rules for referrals set forth in the rules of the judges of the Superior Court, except that the appeal must be de novo and be heard on the record. "De novo" generally means the judge hearing the appeal takes an independent look at the evidence.

Matters that May Not be Referred to Special Assignment Probate Judge

The bill specifies that appeals from the following matters may not be referred to a special assignment probate judge:

1. commitment of mentally ill children (CGS §§ 17a-75 to 17a-83);
2. placement of any person found to be mentally retarded with the Department of Developmental Services for placement in any appropriate setting (CGS § 17a-274);
3. commitment of people with psychiatric disabilities (CGS §§ 17a-495 to 17a-528);
4. procedures governing medication, treatment, psychosurgery, and shock therapy (CGS §17a-543);
5. administration of medication to criminal defendants placed in the custody of the commissioner of mental health and addiction services (CGS § 17a-543a);
6. application for involuntary commitment (CGS § 17a-685 to 17a-688);
7. guardianship matters, termination of parental rights, adoptions, claims for paternity, emancipation, and voluntary admission to the Department of Children and Families of any child or youth who could benefit from any of the services offered by or administered by or available to the department (CGS § 45a-8a);
8. conservators (CGS §§ 45a-644 to 45a-684);
9. guardians of persons with mental retardation (CGS § 45a-688 to 45a-684);
10. sterilization (CGS § 45a-690 to 45a-700); and
11. any matter in a probate court heard on the record (CGS §§ 51-72 and 51-73).

§6 — Fees for Special Assignment Probate Judges

The bill requires that in an appeal heard by a special assignment probate judge, a fee of \$250 is payable at the time of filing to the probate court from which the appeal is taken.

AMENDMENT TO APPEALS TO SUPERIOR COURT § 17

Under current law, if there is any defect in the form of an appeal taken to the Superior Court from a probate court decision, the person who is appealing may obtain from the Probate Court an amendment to the appeal correcting the defect, as long as the order for amendment is granted within 90 days after the date of the order, denial, or decree of the probate court from which the appeal was taken. The bill eliminates this right to get a correcting amendment.

BACKGROUND***Process for Adopting Probate Court Rules***

By law, either the probate court administrator or the executive committee of the Connecticut Probate Assembly may propose regulations the law authorizes the probate court administrator to adopt. Any regulation proposed by the probate court administrator must be submitted to the executive committee of the Connecticut Probate Assembly for approval. Any regulation proposed by the executive committee of the Connecticut Probate Assembly must be submitted to the probate court administrator for approval. If either the probate court administrator or the executive committee of the Connecticut Probate Assembly fails to approve a proposed regulation, it may be submitted to a panel of three Superior Court judges appointed by the Chief Justice of the Supreme Court. The panel must either approve or reject the proposed regulation (CGS § 45a-77(c)(1)).

The law also requires that any proposed new regulation and any change in an existing regulation be submitted to the Judiciary Committee for approval or disapproval in its entirety. If more than one proposed new regulation or change in an existing regulation is submitted at the same time, the committee must approve or disapprove all such proposed new regulations and changes in existing

regulations in their entirety (CGS § 45a-77(c)(2)).

Superior Court Judge’s Salary

Effective January 1, 2007, each judge of the Superior Court, receives \$146,780 per year in compensation (CGS § 51-57(4)(G)).

Special Assignment Probate Judge

The law requires that special assignment probate judges be appointed by the Chief Justice of the Supreme Court, on nomination by the probate court administrator, from among the judges of probate. A nominee must have demonstrated the special skill, experience, or expertise necessary to serve as a special assignment probate judge. The law requires the probate court administrator to issue regulations to establish requirements concerning the responsibilities of special assignment probate judges and the number, geographic distribution, and expertise of such judges. A special assignment probate judge serves at the Chief Justice’s pleasure (CGS § 45a-79b).

Related Bills

HB 6385, which the Judiciary Committee favorably reported out, changes the way in which probate court judges are compensated, replaces the 117 probate court districts with 36, and makes other significant to the probate court systems.

HB 6625, which was favorably reported out by the Judiciary Committee, changes the way a probate judge’s minimum salary can be computed.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 38 Nay 1 (04/01/2009)