



General Assembly

January Session, 2009

Raised Bill No. 6625

LCO No. 4397

04397_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE COURTS OF PROBATE.

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

1 Section 1. Section 45a-77 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) The Probate Court Administrator may attend to any matters that
4 the Probate Court Administrator considers necessary for the efficient
5 operation of the courts of probate and for the expeditious dispatch and
6 proper conduct of the business of such courts. The Probate Court
7 Administrator shall administer and enforce the provisions of this
8 chapter and the regulations issued under this section, and shall ensure
9 performance of the duties of judges of probate and clerks of the courts
10 of probate in accordance with the provisions of this chapter and such
11 regulations. The Probate Court Administrator may make
12 recommendations to the General Assembly for legislation for the
13 improvement of the administration of the courts of probate.

14 (b) (1) The Probate Court Administrator may issue and shall enforce
15 regulations, provided such regulations are approved in accordance
16 with subsection (c) of this section. Such regulations shall be binding on

17 all courts of probate and shall concern the following matters for the
18 administration of the probate court system: (A) Auditing, accounting,
19 statistical, billing, recording, filing and other court procedures; (B)
20 reassignment and transfer of cases; (C) training of court personnel and
21 continuing education programs for judges of probate and court
22 personnel; and (D) the enforcement of the provisions of this chapter
23 and the regulations issued pursuant to this section, including, but not
24 limited to, recovery of expenses associated with any such enforcement,
25 as permitted by such regulations.

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

32 (c) (1) Either the Probate Court Administrator or the executive
33 committee of the Connecticut Probate Assembly may propose
34 regulations authorized under subsection (b) of this section. Any
35 regulation proposed by the Probate Court Administrator shall be
36 submitted to the executive committee of the Connecticut Probate
37 Assembly for approval. Any regulation proposed by the executive
38 committee of the Connecticut Probate Assembly shall be submitted to
39 the Probate Court Administrator for approval. If either the Probate
40 Court Administrator or the executive committee of the Connecticut
41 Probate Assembly fails to approve a proposed regulation, such
42 proposed regulation may be submitted to a panel of three Superior
43 Court judges appointed by the Chief Justice of the Supreme Court. The
44 panel of judges, after consideration of the positions of the Probate
45 Court Administrator and the executive committee of the Connecticut
46 Probate Assembly, shall either approve the proposed regulation or
47 reject the proposed regulation.

48 (2) Any proposed new regulation and any change in an existing

49 regulation issued under this section on or after July 1, 2007, shall be
50 submitted to the joint standing committee of the General Assembly
51 having cognizance of matters relating to the judiciary for approval or
52 disapproval in its entirety, provided, if more than one proposed new
53 regulation or change in an existing regulation is submitted at the same
54 time, said committee shall approve or disapprove all such proposed
55 new regulations and changes in existing regulations together in their
56 entirety. Unless disapproved by said committee within ninety days of
57 the date of such submittal, each such regulation shall become effective
58 on the date specified in such regulation, but not in any event until
59 ninety days after promulgation.

60 (d) The Probate Court Administrator shall regularly review the
61 auditing, accounting, statistical, billing, recording, filing,
62 administrative and other procedures of the courts of probate.

63 (e) The Probate Court Administrator shall, personally, or by an
64 authorized designee of the Probate Court Administrator who has been
65 admitted to the practice of law in this state for at least five years, visit
66 each court of probate at least once during each two-year period to
67 examine the records and files of such court in the presence of the judge
68 of the court or the judge's authorized designee. The Probate Court
69 Administrator shall make any additional inquiries that the Probate
70 Court Administrator considers appropriate to ascertain whether the
71 business of the court, including the charging of costs and payments to
72 the State Treasurer, has been conducted in accordance with law, rules
73 of the courts of probate, regulations issued under this section and the
74 canons of judicial ethics, and to obtain information concerning the
75 business of the courts of probate which is necessary for the Probate
76 Court Administrator to perform properly the duties of the office.

77 Sec. 2. Subsection (b) of section 45a-92 of the general statutes is
78 repealed and the following is substituted in lieu thereof (*Effective*
79 *October 1, 2009*):

80 (b) The personal representative of each person who holds the office

81 of judge of probate, at any time during any calendar year, and dies
82 while in office, or within twenty-four months after ceasing to hold
83 office, shall file with the Probate Court Administrator, on or before
84 [March] April first next following such death, a statement signed
85 under penalty of false statement showing the actual gross receipts and
86 itemized costs of the decedent's office for the preceding calendar year
87 and the decedent's net income from that office for such calendar year.
88 The personal representative shall file with the Probate Court
89 Administrator on or before [March] April first of the second year
90 following said death a statement signed under penalty of false
91 statement showing the net income to the decedent's estate from such
92 office for the preceding calendar year.

93 Sec. 3. Subsection (c) of section 45a-92 of the general statutes is
94 repealed and the following is substituted in lieu thereof (*Effective*
95 *October 1, 2009*):

96 (c) Each judge of probate or personal representative, except a judge
97 of probate who is the Probate Court Administrator, shall at the time of
98 filing such returns pay to the State Treasurer to be credited to the fund
99 established by section 45a-82, a percentage of the annual net income
100 from such office based on the following table in which the percentage
101 appearing in the left column shall first be multiplied by the minimum
102 annual compensation of a high volume court as provided in subsection
103 (k) of this section, as in effect on the first day of July of the calendar
104 year for which an assessment is due pursuant to this section, the
105 product of which shall then be multiplied by the applicable percentage
106 appearing in the right column:

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

T7	Next 6.66%	35%
T8	Next 13.34%	50%
T9	Next 33.33%	75%
T10	Next 33.67%	80%
T11	Next 66.67%	85%
T12	Next 133.33%	95%
T13	Excess over 333.67%, up to the maximum amount computed at 97.5%	
T14	by the Probate Court Administrator	
T15	All over the maximum amount computed at 100% by the Probate	
T16	Court Administrator.	

107 As used in this subsection, "maximum amount" means the amount of
108 annual net income from such office which, when applying the
109 percentage payments set forth above, shall result in the judge of
110 probate retaining as net compensation, after the payment of the above
111 amounts, no more than the product resulting from the multiplication
112 of seventy-two dollars by the annual weighted-workload of the court,
113 as defined in regulations issued by the Probate Court Administrator
114 pursuant to subdivision (1) of subsection (b) of section 45a-77, as
115 amended by this act, but not to exceed the compensation of a high
116 volume court as set forth in subsection (k) of this section, provided this
117 limitation shall not apply to those courts described in subsection (k) of
118 this section. Such payment shall be deemed to be a necessary expense
119 of such office, but shall not be deductible from the gross income for the
120 purpose of determining net income of such office under this section.
121 Notwithstanding the provisions of this subsection, the annual
122 minimum compensation of a judge of probate shall be no less than the
123 product resulting from the multiplication of fifteen dollars by the
124 annual weighted-workload of the court, as defined in regulations
125 issued by the Probate Court Administrator pursuant to subdivision (1)
126 of subsection (b) of section 45a-77, as amended by this act, or no less
127 than the judge's average compensation for the three-year period from

128 January 1, 1996, to December 31, 1998, provided there was no break in
129 the judge's service after such three-year period, but, in no event shall
130 that minimum compensation exceed that provided pursuant to
131 subsection (k) of this section.

132 Sec. 4. Subsection (h) of section 45a-92 of the general statutes is
133 repealed and the following is substituted in lieu thereof (*Effective*
134 *October 1, 2009*):

135 (h) If the amount already paid was less than the amount due, such
136 person shall, on or before [March] April first of the succeeding
137 calendar year, pay to the State Treasurer the entire deficiency. If the
138 amount already paid was more than the amount due, such person
139 shall either, at his election and pursuant to regulations promulgated by
140 the State Treasurer, be entitled to a refund of such excess payment to
141 be paid from the fund provided by section 45a-82, or a credit in the
142 amount of the overpayment to be charged against the future
143 obligations of such person to said fund.

144 Sec. 5. Subsection (b) of section 45a-186 of the general statutes is
145 repealed and the following is substituted in lieu thereof (*Effective from*
146 *passage*):

147 (b) Each person who files an appeal pursuant to this section shall
148 [serve] mail a copy of the complaint [on] to the court of probate that
149 rendered the order, denial or decree appealed from and serve a copy of
150 the complaint on each interested party. The failure of any person to
151 make such service shall not deprive the Superior Court of jurisdiction
152 over the appeal. Notwithstanding the provisions of section 52-50,
153 service of the copy of the complaint shall be by state marshal, constable
154 or an indifferent person. Service shall be in hand or by leaving a copy
155 [at the court of probate that rendered the order being appealed, or by
156 leaving a copy] at the place of residence of the interested party being
157 served or at the address for the interested party on file with said court
158 of probate, except that service on a respondent or conserved person in
159 an appeal from an action under part IV of chapter 802h shall be in

160 hand by a state marshal, constable or an indifferent person.

161 Sec. 6. Section 45a-316 of the general statutes is repealed and the
162 following is substituted in lieu thereof (*Effective October 1, 2009*):

163 (a) Whenever, upon the application of a creditor or other person
164 interested in the estate of a deceased person, it is found by the court of
165 probate having jurisdiction of the estate that the granting of
166 administration on the estate or the probating of the will of the
167 deceased person will be delayed, or that it is necessary for the
168 protection of the estate of the deceased person, the court may, with or
169 without notice, appoint a temporary administrator to hold and
170 preserve the estate until the appointment of an administrator or the
171 probating of the will. The court shall require from such administrator a
172 probate bond. If the court deems it more expedient, [it] the court may
173 order any state marshal or constable to take possession of the estate
174 until the appointment of an administrator or executor.

175 (b) Any person found by the court to have sufficient interest in the
176 estate may apply to the court of probate for the appointment of a
177 temporary administrator for the limited purpose of obtaining financial
178 or medical information concerning the deceased person, including, but
179 not limited to, medical information and records necessary for the
180 investigation of a potential cause of action of the estate, or a potential
181 cause of action of an heir, devisee, legatee or beneficiary of the
182 deceased person. The court may grant the application if the court finds
183 that such appointment would be in the interests of the estate or in the
184 interests of an heir, devisee, legatee or beneficiary of the deceased
185 person. The court shall limit the authority of the temporary
186 administrator to disclose the information obtained by the temporary
187 administrator, as appropriate, and may issue an appropriate order for
188 the disclosure of such information. Any order appointing a temporary
189 administrator under this subsection, and any certificate of the
190 appointment of a fiduciary issued by the clerk of the court, shall
191 indicate (1) the duration of the temporary administrator's

192 appointment, and (2) that such temporary administrator has no
193 authority over the assets of the deceased person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	45a-77
Sec. 2	<i>October 1, 2009</i>	45a-92(b)
Sec. 3	<i>October 1, 2009</i>	45a-92(c)
Sec. 4	<i>October 1, 2009</i>	45a-92(h)
Sec. 5	<i>from passage</i>	45a-186(b)
Sec. 6	<i>October 1, 2009</i>	45a-316

Statement of Purpose:

To make minor and technical changes to statutes related to the courts of probate.

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