



General Assembly

January Session, 2009

Raised Bill No. 6626

LCO No. 4436

04436_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT TRANSFERRING JURISDICTION OF CONTESTED PROBATE MATTERS TO THE SUPERIOR COURT.

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

1 Section 1. Section 51-164s of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 The Superior Court shall be the sole court of original jurisdiction for
4 all causes of action, [except such actions over which the courts of
5 probate have original jurisdiction, as provided by statute] including
6 contested probate matters, as defined in section 45a-25, as amended by
7 this act. All jurisdiction heretofore conferred upon and exercised by
8 the Court of Common Pleas and the Juvenile Court prior to July 1, 1978
9 shall be transferred to the Superior Court on July 1, 1978. All
10 jurisdiction over contested probate matters heretofore conferred upon
11 and exercised by the courts of probate shall be transferred to the
12 Superior Court on October 1, 2009.

13 Sec. 2. Section 51-165 of the general statutes is repealed and the
14 following is substituted in lieu thereof (*Effective October 1, 2009*):

15 (a) (1) On and after July 1, 1998, the Superior Court shall consist of
16 one hundred eighty-one judges, including the judges of the Supreme
17 Court and the Appellate Court, who shall be appointed by the General
18 Assembly upon nomination of the Governor.

19 (2) On and after October 1, 1998, the Superior Court shall consist of
20 one hundred eighty-three judges, including the judges of the Supreme
21 Court and the Appellate Court, who shall be appointed by the General
22 Assembly upon nomination of the Governor.

23 (3) On and after January 1, 1999, the Superior Court shall consist of
24 one hundred eighty-six judges, including the judges of the Supreme
25 Court and the Appellate Court, who shall be appointed by the General
26 Assembly upon nomination of the Governor.

27 (4) On and after October 1, 1999, the Superior Court shall consist of
28 one hundred ninety-one judges, including the judges of the Supreme
29 Court and the Appellate Court, who shall be appointed by the General
30 Assembly upon nomination of the Governor.

31 (5) On and after October 1, 2000, the Superior Court shall consist of
32 one hundred ninety-six judges, including the judges of the Supreme
33 Court and the Appellate Court, who shall be appointed by the General
34 Assembly upon nomination of the Governor.

35 (6) On and after April 1, 2009, the Superior Court shall consist of
36 two hundred one judges, including the judges of the Supreme Court
37 and the Appellate Court, who shall be appointed by the General
38 Assembly upon nomination of the Governor.

39 (b) In addition thereto, each judge of the Supreme Court, Appellate
40 Court, or judge of the Superior Court who elects to retain his office but
41 retire from full-time active service shall continue to be a member of the
42 Superior Court during the remainder of his term of office and during
43 the term of any reappointment under section 51-50i, until he attains the
44 age of seventy years. He shall be entitled to participate in the meetings

45 of the judges of the Superior Court and to vote as a member thereof.

46 (c) Any judge assigned to hear housing matters should have a
47 commitment to the maintenance of decent, safe and sanitary housing
48 and, if practicable, shall devote full time to housing matters. If
49 practicable, he should be assigned to hear matters for not less than
50 eighteen months. Any judge assigned to housing matters in a judicial
51 district should reside in one of the judicial districts served by the
52 housing session after he is assigned thereto.

53 (d) Any judge assigned to hear juvenile matters should have a
54 commitment to the prompt resolution of disputes affecting the care
55 and custody of children with full understanding of all factors affecting
56 the best interests of children and, if practicable, shall devote full time
57 to juvenile matters. If practicable, any such judge should be assigned to
58 hear juvenile matters for not less than eighteen months.

59 (e) Any judge assigned to hear contested probate matters should
60 have a commitment to the prompt resolution of disputes affecting legal
61 rights, duties, property or privileges of individuals under a disability
62 and, if practicable, shall devote full time to contested probate matters.
63 If practicable, any such judge should be assigned to hear contested
64 probate matters for not less than eighteen months.

65 Sec. 3. Section 45a-25 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective October 1, 2009*):

67 (a) A judge of probate shall not appear as attorney in any contested
68 probate matter in [any court of probate] the Superior Court, Appellate
69 Court or Supreme Court.

70 (b) For the purposes of subsection (a) of this section and sections 5
71 to 8, inclusive, of this act, [a matter before a court of probate is a
72 contested matter when any party to such matter informs the court,
73 orally or in writing, of any objection or opposition in such matter,
74 without regard to the apparent merit or lack of merit of such objection

75 or opposition] "contested probate matter" means a proceeding in
76 which the legal rights, duties, property or privileges of a party are in
77 dispute and are required to be determined by a court after an
78 opportunity for a hearing.

79 Sec. 4. Section 45a-98 of the general statutes is repealed and the
80 following is substituted in lieu thereof (*Effective October 1, 2009*):

81 (a) [Courts] Except with respect to a contested probate matter, as
82 defined in subsection (b) of section 45a-25, as amended by this act,
83 courts of probate in their respective districts shall have the power to (1)
84 grant administration of intestate estates of persons who have died
85 domiciled in their districts and of intestate estates of persons not
86 domiciled in this state which may be granted as provided by section
87 45a-303; (2) admit wills to probate of persons who have died domiciled
88 in their districts or of nondomiciliaries whose wills may be proved in
89 their districts as provided in section 45a-287; (3) except as provided in
90 section 45a-98a or as limited by an applicable statute of limitations,
91 determine title or rights of possession and use in and to any real,
92 tangible or intangible property that constitutes, or may constitute, all
93 or part of any trust, any decedent's estate, or any estate under control
94 of a guardian or conservator, which trust or estate is otherwise subject
95 to the jurisdiction of the Probate Court, including the rights and
96 obligations of any beneficiary of the trust or estate and including the
97 rights and obligations of any joint tenant with respect to survivorship
98 property; (4) except as provided in section 45a-98a, construe the
99 meaning and effect of any will or trust agreement if a construction is
100 required in connection with the administration or distribution of a
101 trust or estate otherwise subject to the jurisdiction of the Probate
102 Court, or, with respect to an inter vivos trust, if that trust is or could be
103 subject to jurisdiction of the court for an accounting pursuant to
104 section 45a-175, provided such an accounting need not be required; (5)
105 except as provided in section 45a-98a, apply the doctrine of cy pres or
106 approximation; (6) to the extent provided for in section 45a-175, call
107 executors, administrators, trustees, guardians, conservators, persons

108 appointed to sell the land of minors, and attorneys-in-fact acting under
109 powers of attorney created in accordance with section 45a-562, to
110 account concerning the estates entrusted to their charge; and (7) make
111 any lawful orders or decrees to carry into effect the power and
112 jurisdiction conferred upon them by the laws of this state.

113 (b) The jurisdiction of courts of probate to determine title or rights
114 or to construe instruments or to apply the doctrine of cy pres or
115 approximation pursuant to subsection (a) of this section is concurrent
116 with the jurisdiction of the Superior Court and does not affect the
117 power of the Superior Court as a court of general jurisdiction.

118 Sec. 5. (NEW) (*Effective October 1, 2009*) (a) All contested matters
119 pending in the courts of probate on October 1, 2009, shall be construed
120 as pending with the same status in the Superior Court on said date.

121 (b) All pending appeals from final orders, actions or decrees of the
122 courts of probate filed prior to October 1, 2009, under the provisions of
123 section 45a-186 of the general statutes shall be construed as having the
124 same status as on September 30, 2009, and shall be heard by the
125 Appellate Court.

126 Sec. 6. (NEW) (*Effective October 1, 2009*) Any form that was valid on
127 September 30, 2009, for use in any contested probate matter, as defined
128 in subsection (b) of section 45a-25 of the general statutes, as amended
129 by this act, shall be valid for use in the Superior Court in such
130 contested probate matter on and after October 1, 2009. On and after
131 October 1, 2009, wherever in such form the words "probate court" or
132 "court of probate" appear, such words shall be construed to mean
133 "Superior Court".

134 Sec. 7. (NEW) (*Effective October 1, 2009*) The judges of the Supreme
135 Court, the judges of the Appellate Court and the judges of the Superior
136 Court shall adopt and promulgate and may from time to time modify
137 or repeal rules and forms regulating contested probate matters in the
138 Superior Court. Any order or regulation of the Probate Court

139 Administrator with respect to a contested probate matter which is in
 140 force on September 30, 2009, shall continue in force and effect as an
 141 order or regulation of the judges of said courts until amended,
 142 repealed or superseded pursuant to law or rule of said courts.

143 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) Wherever the words
 144 "probate court" or "court of probate" are used in the general statutes
 145 with respect to a contested probate matter, the words "Superior Court"
 146 shall be construed as substituted in lieu thereof.

147 (b) Whenever the words "probate court" or "court of probate" are
 148 used in any provision of part I to part VII, inclusive, of chapter 802h of
 149 the general statutes, the words "Superior Court " shall be substituted in
 150 lieu thereof. In codifying the provisions of this section, the Legislative
 151 Commissioners' Office shall make such technical, grammatical and
 152 punctuation changes as are necessary to carry out the purposes of this
 153 section.

154 Sec. 9. Sections 45a-134 and 45a-296 of the general statutes are
 155 repealed. (*Effective October 1, 2009*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	51-164s
Sec. 2	<i>October 1, 2009</i>	51-165
Sec. 3	<i>October 1, 2009</i>	45a-25
Sec. 4	<i>October 1, 2009</i>	45a-98
Sec. 5	<i>October 1, 2009</i>	New section
Sec. 6	<i>October 1, 2009</i>	New section
Sec. 7	<i>October 1, 2009</i>	New section
Sec. 8	<i>October 1, 2009</i>	New section
Sec. 9	<i>October 1, 2009</i>	Repealer section

Statement of Purpose:

To transfer jurisdiction over all contested probate cases from the probate court to the Superior Court.

[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.]