



General Assembly

February Session, 2012

**Raised Bill No. 309**

LCO No. 1706

\*01706\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING PROBATE COURT OPERATIONS.**

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

1 Section 1. Section 45a-34 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2012*):

3 The following words and phrases as used in sections 45a-34 to 45a-  
4 54, inclusive, as amended by this act, and section 45a-75 except as  
5 otherwise provided, shall have the following meanings:

6 (1) "Average final compensation" means, (A) in the case of a judge of  
7 probate, the average annual compensation for the three highest paid  
8 years of service while serving in the probate court to which the judge  
9 was elected or by citation to any other court or courts, including any  
10 compensation received for service (i) on or after June 1, 2004, as an  
11 administrative judge for a regional children's probate court under  
12 section 45a-8a, as amended by this act, or (ii) on or after July 1, 2007, as  
13 a special assignment probate judge under section 45a-79b, as amended  
14 by this act, provided, for the purposes of this section, the  
15 compensation for any one year shall not exceed the maximum net  
16 annual income currently allowed by law, and, (B) in the case of an

17 employee, the average annual rate of pay during the employee's three  
18 highest paid years of employment;

19 (2) "Credited service" means (A) all periods during which a person  
20 held the office of judge of probate and (i) any period of service elected  
21 by a judge pursuant to section 45a-36a, and (ii) any period of service as  
22 an administrative judge for a regional children's probate court after  
23 such judge ceases to serve as a probate judge, provided such  
24 administrative judge works as an administrative judge at least one  
25 thousand hours per year, or (B) [any period] all periods during which  
26 a person served as an employee of any probate court, or (C) subject to  
27 the requirements of subsections (a) and (b) of section 45a-54, a period  
28 of not more than three years for service as a member of the General  
29 Assembly and military service, or (D) the aggregate of any periods of  
30 service provided for in subparagraphs (A), (B), [and] (C) and (D) of  
31 this subsection;

32 (3) "Employee" means (A) with respect to a person employed or  
33 who serves prior to January 1, 2011, a person employed by any probate  
34 court for more than four hundred thirty hours per year or a person  
35 who served for more than four hundred thirty hours per year  
36 performing under any contract of employment with any court of  
37 probate, and (B) with respect to a person first employed or who first  
38 serves on or after January 1, 2011, a person employed by any probate  
39 court for at least one thousand hours per year or a person who serves  
40 at least one thousand hours per year performing under any contract of  
41 employment with any court of probate;

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

43 (5) "Judge" means a judge of probate, except that, with respect to a  
44 judge first elected for a term beginning on or after January 5, 2011,  
45 judge means a person who holds the office of judge of probate and  
46 works in such judge's capacity as a judge of probate for at least one  
47 thousand hours per year as determined pursuant to information filed  
48 by the judge of probate with the Probate Court Administrator

49 pursuant to subsection (h) of section 5-259;

50 (6) "Member" means any judge of probate or employee who is or  
51 may become eligible for retirement benefits under sections 45a-34 to  
52 45a-54, inclusive, as amended by this act, and 45a-75;

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

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

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

59 (10) "Retirement Commission" means the State Retirement  
60 Commission; and

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

65 Sec. 2. Subsection (a) of section 45a-45 of the general statutes is  
66 repealed and the following is substituted in lieu thereof (*Effective July*  
67 *1, 2012*):

68 (a) Each judge of probate shall contribute to the fund three and  
69 three-quarters per cent of that portion of the judge's annual  
70 compensation, including any compensation received as an  
71 administrative judge for a regional children's probate court under  
72 section 45a-8a, as amended by this act, or as a special assignment  
73 probate judge under section 45a-79b, as amended by this act, with  
74 respect to which contributions are not made to the Federal Old Age  
75 and Survivors System as provided for in sections 7-452 to 7-459,  
76 inclusive, and one per cent of that portion from which such  
77 contributions are made. The Probate Court Administrator shall deduct

78 the judge's contributions from the judge's compensation and shall  
79 forward such contributions to the Retirement Commission to be  
80 credited to the retirement fund on the judge's account.

81 Sec. 3. Subdivision (1) of subsection (f) of section 45a-8a of the 2012  
82 supplement to the general statutes is repealed and the following is  
83 substituted in lieu thereof (*Effective July 1, 2012*):

84 (f) (1) The Probate Court Administrator, with the advice of the  
85 participating probate judges of the districts located in the designated  
86 region, shall appoint an administrative judge for each regional  
87 children's probate court. The administrative judge shall be a probate  
88 judge at the time of such appointment. If the administrative judge  
89 ceases to serve as a probate judge after such appointment, the  
90 administrative judge may continue to serve as administrative judge at  
91 the pleasure of the Probate Court Administrator, but shall not have the  
92 powers granted to an elected probate judge and shall not hear and  
93 determine children's matters before such regional children's probate  
94 court. Subject to the approval of the Chief Court Administrator, the  
95 Probate Court Administrator shall fix the compensation of the  
96 administrative judge and such compensation shall be paid from the  
97 Probate Court Administration Fund. Such compensation, together with  
98 the administrative judge's compensation as a probate judge of the  
99 district to which he or she was elected, shall not exceed the  
100 compensation provided for a judge of probate under subdivision (4) of  
101 subsection (a) of section 45a-95a. The administrative judge shall have  
102 such benefits as may inure to him or her as a probate judge and shall  
103 receive no additional benefits, except for compensation provided  
104 under this section and retirement benefits calculated in accordance  
105 with sections 45a-34 to 45a-54, inclusive, as amended by this act.

106 Sec. 4. Subsection (b) of section 45a-79b of the general statutes is  
107 repealed and the following is substituted in lieu thereof (*Effective July*  
108 *1, 2012*):

109 (b) Subject to the approval of the Chief Court Administrator, the

110 Probate Court Administrator shall fix the compensation of special  
111 assignment probate judges appointed pursuant to this section. Such  
112 compensation shall, on the order of the Probate Court Administrator,  
113 be paid from the Probate Court Administration Fund established  
114 under section 45a-82. Such compensation, including compensation that  
115 a special assignment probate judge receives as a judge of probate of the  
116 district to which the judge was elected, shall not exceed the  
117 compensation provided for a judge of probate under subdivision (4) of  
118 subsection (a) of section 45a-95a. A special assignment probate judge  
119 shall have such benefits as may inure to him or her as a judge of  
120 probate and shall receive no additional benefits, except compensation  
121 provided under this subsection and retirement benefits calculated in  
122 accordance with sections 45a-34 to 45a-54, inclusive, as amended by  
123 this act.

124 Sec. 5. Section 45a-55 of the general statutes is repealed and the  
125 following is substituted in lieu thereof (*Effective October 1, 2012*):

126 (a) Any claim for a pension [or any other benefit] which may  
127 become available in accordance with the provisions of sections 45a-1 to  
128 45a-12, inclusive, 45a-18 to 45a-26, inclusive, 45a-34 to 45a-56,  
129 inclusive, as amended by this act, 45a-62 to 45a-68, inclusive, 45a-74 to  
130 45a-83, inclusive, 45a-90 to 45a-93, inclusive, 45a-98, 45a-99, 45a-105,  
131 45a-119 to 45a-123, inclusive, 45a-128, 45a-130, 45a-131, 45a-133, 45a-  
132 199 and 45a-202, may be submitted in writing to the commission. Any  
133 such claim will be reviewed and decided by the commission. The  
134 claimant shall be advised of the processing status of [his] the claim  
135 upon reasonable request.

136 (b) If any claim is denied, a claimant may request that the decision  
137 be reviewed and reconsidered by the commission. Thereafter, any  
138 contested case shall be heard and decided in accordance with chapter  
139 54.

140 Sec. 6. Section 45a-76 of the general statutes is repealed and the  
141 following is substituted in lieu thereof (*Effective October 1, 2012*):

142 The Probate Court Administrator shall file with the Chief Court  
143 Administrator, on or before the first day of April of each even-  
144 numbered year, a report of the business of the office of the Probate  
145 Court Administrator during the [year] biennium ending on the  
146 previous [thirty-first day of December] thirtieth day of June, together  
147 with any information [which] that the Chief Court Administrator may  
148 request.

149 Sec. 7. Subsection (d) of section 45a-287 of the 2012 supplement to  
150 the general statutes is repealed and the following is substituted in lieu  
151 thereof (*Effective from passage*):

152 (d) All property of a testator whose will is proved under this section  
153 shall be subject to the laws of this state relating to the taxation of  
154 inheritances and successions, except that such laws shall not be  
155 applied on the basis that the testator was a domiciliary of this state  
156 unless there is a finding that such person was domiciled in this state as  
157 provided in section 45a-309. [Costs of the court of probate under  
158 section 45a-105, for proceedings in the settlement of the estate of a  
159 nondomiciliary testator whose will is proved under this section, shall  
160 be determined on the basis of an assumed gross taxable value equal to  
161 the sum of (1) the actual gross taxable estate determined under section  
162 12-349 and (2) the value set forth in the inventory of such estate under  
163 section 45a-341 of all property therein which is not part of the actual  
164 gross taxable estate, excluding any insurance proceeds exempt from  
165 taxation under section 12-342.]

166 Sec. 8. Section 45a-623 of the general statutes is repealed and the  
167 following is substituted in lieu thereof (*Effective January 1, 2013*):

168 [In any proceeding] Before a hearing on the merits in any case under  
169 sections 45a-603 to 45a-622, inclusive, that is contested, the Court of  
170 Probate shall, [upon] on motion of any party other than a party who  
171 made application for the removal of a parent as a guardian, [under  
172 rules adopted by the judges of the Supreme Court] or may, on the  
173 court's own motion or motion of the party who made application for

174 the removal of a parent as a guardian, transfer the case to the Superior  
175 Court in accordance with rules adopted by the judges of the Supreme  
176 Court. In addition to the provisions of this section, the Court of  
177 Probate may, on the court's own motion or [that] motion of any  
178 interested party, transfer any proceeding under sections 45a-603 to  
179 45a-622, inclusive, to [another judge of probate, which judge shall be  
180 appointed by the Probate Court Administrator from a panel of  
181 qualified probate judges who specialize in children's matters. Such  
182 panel shall be proposed by the Probate Court Administrator and  
183 approved by the executive committee of the Connecticut Probate  
184 Assembly] a regional children's probate court established pursuant to  
185 section 45a-8a, as amended by this act. If the case is transferred and  
186 venue altered, the clerk of the Court of Probate shall transmit to the  
187 clerk of the Superior Court, or the regional children's probate court to  
188 which the case was transferred, the original files and papers in the  
189 case.

190 Sec. 9. Subsection (g) of section 45a-715 of the general statutes is  
191 repealed and the following is substituted in lieu thereof (*Effective*  
192 *January 1, 2013*):

193 (g) Before a hearing on the merits in any case in which a petition for  
194 termination of parental rights is contested in a court of probate, the  
195 court of probate shall, on the motion of any legal party except the  
196 petitioner, or may on its own motion or that of the petitioner, [under  
197 rules adopted by the judges of the Supreme Court,] transfer the case to  
198 the Superior Court in accordance with rules adopted by the judges of  
199 the Supreme Court. In addition to the provisions of this section, the  
200 probate court may, on the court's own motion or that of any interested  
201 party, transfer any termination of parental rights case to [another judge  
202 of probate, which judge shall be appointed by the Probate Court  
203 Administrator from a panel of qualified probate judges who specialize  
204 in children's matters. Such panel shall be proposed by the Probate  
205 Court Administrator and approved by the executive committee of the  
206 Connecticut Probate Assembly] a regional children's probate court

207 established pursuant to section 45a-8a, as amended by this act. If the  
208 case is transferred, the clerk of the Court of Probate shall transmit to  
209 the clerk of the Superior Court, or the regional children's probate court  
210 to which the case was transferred, the original files and papers in the  
211 case. The Superior Court or the regional children's probate court to  
212 which the case was transferred, upon hearing after notice as provided  
213 in sections 45a-716 and 45a-717, may grant the petition as provided in  
214 section 45a-717.

215 Sec. 10. (NEW) (*Effective October 1, 2012*) (a) A matter being heard at  
216 a regional children's probate court may be assigned to a probate court  
217 officer to perform any of the following functions:

218 (1) Conduct conferences with interested parties, attorneys for  
219 interested parties, representatives from the Department of Children  
220 and Families and social service providers, when appropriate;

221 (2) Facilitate the development of a family's case plan;

222 (3) Facilitate the development of a visitation plan;

223 (4) Coordinate with the Department of Children and Families to  
224 facilitate a thorough review of the matter being heard;

225 (5) Assess whether the family's proposed case plan, if any, is in the  
226 minor's best interests and testify at hearings concerning the probate  
227 court officer's assessment of the matter;

228 (6) Assist the family in accessing community services; and

229 (7) Conduct follow-up regarding orders of the court.

230 (b) The probate court officer may file with the court a report setting  
231 forth such officer's recommendations concerning a family's case plan.  
232 The report shall be admissible in evidence. If a party or an attorney for  
233 a party notifies the court not less than three days before a scheduled  
234 hearing that such party or attorney wishes to cross-examine the

235 probate court officer who filed the report, the court shall order such  
236 probate court officer to appear at the hearing.

237 Sec. 11. Section 45a-316 of the 2012 supplement to the general  
238 statutes is repealed and the following is substituted in lieu thereof  
239 (*Effective January 1, 2013*):

240 [(a)] Whenever, upon the application of a creditor or other person  
241 interested in the estate of a deceased person, it is found by the court of  
242 probate having jurisdiction of the estate that the granting of  
243 administration on the estate or the probating of the will of the  
244 deceased will be delayed, or that it is necessary for the protection of  
245 the estate of the deceased, the court may, with or without notice,  
246 appoint a temporary administrator to hold and preserve the estate  
247 until the appointment of an administrator or the probating of the will.  
248 The court shall require from such administrator a probate bond. If the  
249 court deems it more expedient, it may order any state marshal or  
250 constable to take possession of the estate until the appointment of an  
251 administrator or executor.

252 [(b)] Any person interested in the estate of a deceased person and  
253 having a need to obtain financial or medical information concerning  
254 the deceased person for the limited purpose of investigating a  
255 potential cause of action of the estate, surviving spouse, children, heirs  
256 or other dependents of the deceased person, or a potential claim for  
257 benefits under a workers' compensation act, an insurance policy or  
258 other benefits in favor of the estate, surviving spouse, children, heirs or  
259 other dependents of the deceased person, may apply to the court of  
260 probate having jurisdiction of the estate of the deceased person for the  
261 appointment of a temporary administrator. The court of probate may  
262 grant the application and appoint a temporary administrator for such  
263 limited purpose if the court finds that such appointment would be in  
264 the interests of the estate or in the interests of the surviving spouse,  
265 children, heirs or other dependents of the deceased person. If the court  
266 appoints a temporary administrator under this subsection, the court

267 may require a probate bond or may waive such bond requirement. The  
268 court shall limit the authority of the temporary administrator to  
269 disclose the information obtained by the temporary administrator, as  
270 appropriate, and may issue an appropriate order for the disclosure of  
271 such information. Any order appointing a temporary administrator  
272 under this subsection, and any certificate of the appointment of a  
273 fiduciary issued by the clerk of the court, shall indicate (1) the duration  
274 of the temporary administrator's appointment, and (2) that such  
275 temporary administrator has no authority over the assets of the  
276 deceased person.]

277 Sec. 12. Subsection (a) of section 45a-317 of the 2012 supplement to  
278 the general statutes is repealed and the following is substituted in lieu  
279 thereof (*Effective January 1, 2013*):

280 (a) The temporary administrator or officer appointed pursuant to  
281 the provisions of [subsection (a) of] section 45a-316, as amended by  
282 this act, shall take immediate possession of all the real and personal  
283 property of the deceased, collect the rents, debts and income thereof  
284 and do any additional acts necessary for the preservation of the estate  
285 that the court authorizes.

286 Sec. 13. (NEW) (*Effective January 1, 2013*) Any person interested in  
287 the estate of a deceased person and having a need to obtain financial or  
288 medical information concerning the deceased person for the limited  
289 purpose of investigating a potential cause of action of the estate,  
290 surviving spouse, children, heirs or other dependents of the deceased  
291 person, or a potential claim for benefits under a workers'  
292 compensation act, an insurance policy or other benefits in favor of the  
293 estate, surviving spouse, children, heirs or other dependents of the  
294 deceased person, may apply to the court of probate having jurisdiction  
295 of the estate of the deceased person for the appointment of a estate  
296 examiner. The court of probate may grant the application and appoint  
297 an estate examiner for such limited purpose if the court finds that such  
298 appointment would be in the interests of the estate or in the interests of

299 the surviving spouse, children, heirs or other dependents of the  
300 deceased person. If the court appoints an estate examiner under this  
301 section, the court may require a probate bond or may waive such bond  
302 requirement. The court shall limit the authority of the estate examiner  
303 to disclose the information obtained by the estate examiner, as  
304 appropriate, and may issue an appropriate order for the disclosure of  
305 such information. Any order appointing an estate examiner under this  
306 section, and any certificate of the appointment of a fiduciary issued by  
307 the clerk of the court, shall indicate (1) the duration of the estate  
308 examiner's appointment, and (2) that such estate examiner has no  
309 authority over the assets of the deceased person.

310 Sec. 14. Section 45a-681 of the general statutes is repealed and the  
311 following is substituted in lieu thereof (*Effective October 1, 2012*):

312 (a) The court shall review each guardianship of the person with  
313 intellectual disability or limited guardianship of the person with  
314 intellectual disability at least every three years and shall either  
315 continue, modify or terminate the order for guardianship. Pursuant to  
316 such review:

317 (1) The court shall receive and review written evidence as to the  
318 condition of the ward. Except as provided in subdivision (2) of this  
319 subsection, the guardian [, the attorney for the ward] and a  
320 Department of Developmental Services professional or, if requested by  
321 the ward or by the court, an assessment team appointed by the  
322 Commissioner of Developmental Services or [his] the commissioner's  
323 designee shall each submit a written report to the court not later than  
324 forty-five days after the court's request for such report.

325 (2) In the case of a ward who is functioning adaptively and  
326 intellectually within the severe or profound range of intellectual  
327 disability, as determined by the Department of Developmental  
328 Services, the court shall receive and review written reports as to the  
329 condition of the ward only from the guardian, [and the attorney for the  
330 ward, provided] except that the court may require a Department of

331 Developmental Services professional or assessment team to submit a  
332 written report as to the condition of such ward.

333 (3) The Department of Developmental Services professional or  
334 assessment team shall personally observe or examine the ward within  
335 the forty-five-day period preceding the date it submits any report  
336 under subdivision (4) of this subsection.

337 (4) Each written report shall be submitted to the court not later than  
338 forty-five days after the court's request for such report. On receipt of a  
339 written report from the guardian or a Department of Developmental  
340 Services professional or assessment team, the court shall provide a  
341 copy of the report to the attorney for the ward.

342 (5) Not later than thirty days after the attorney for the ward receives  
343 a copy of a report pursuant to subdivision (4) of this subsection, the  
344 attorney for the ward shall (A) meet with the ward concerning the  
345 report, and (B) provide written notice to the court (i) that the attorney  
346 for the ward has met with the ward, and (ii) indicating whether a  
347 hearing is requested. Nothing in this section shall prevent the ward or  
348 the attorney for the ward from requesting a hearing at any other time  
349 as permitted by law.

350 ~~[(3)]~~ (6) If the ward is unable to request or obtain an attorney, the  
351 court shall appoint an attorney for the ward. If the ward is unable to  
352 pay for the services of the attorney, the reasonable compensation of  
353 such attorney shall be established by, and paid from funds  
354 appropriated to, the Judicial Department; however, if funds have not  
355 been included in the budget of the Judicial Department for such  
356 purposes, such compensation shall be established by the Probate Court  
357 Administrator and paid from the Probate Court Administration Fund.  
358 [The Department of Developmental Services professional or  
359 assessment team shall personally observe or examine the ward within  
360 the forty-five-day period preceding the date of submission of its  
361 report.]

362 (b) If the court determines, after receipt of the reports from [the  
363 attorney for the ward,] the Department of Developmental Services  
364 professional or assessment team and the guardian, and notice from the  
365 attorney for the ward, that there has been no change in the condition of  
366 the ward since the last preceding review by the court, a hearing on the  
367 condition of the ward shall not be required, but the court, in its  
368 discretion, may hold such hearing. If the attorney for the ward, the  
369 Department of Developmental Services professional or assessment  
370 team or the guardian requests a hearing, the court shall hold a hearing  
371 within thirty days of such request. No order expanding or reducing the  
372 powers and responsibilities of a guardian shall be issued unless such  
373 hearing is held.

374 Sec. 15. Subsection (d) of section 52-60 of the general statutes is  
375 repealed and the following is substituted in lieu thereof (*Effective*  
376 *January 1, 2013*):

377 (d) Service upon the judge of probate as attorney for the nonresident  
378 fiduciary shall be sufficient service upon the nonresident fiduciary,  
379 and shall be made by leaving an attested copy of the process with such  
380 judge of probate [, who] or with the probate court that appointed the  
381 nonresident fiduciary, and such judge or court shall forthwith give  
382 notice thereof to such executor, administrator, conservator, guardian  
383 or trustee.

384 Sec. 16. Section 52-61 of the general statutes is repealed and the  
385 following is substituted in lieu thereof (*Effective January 1, 2013*):

386 Process in civil actions against a nonresident executor,  
387 administrator, conservator, guardian or trustee, in his representative  
388 capacity, or in his individual capacity in any action founded upon or  
389 arising from his acts or omissions as such executor, administrator,  
390 conservator, guardian or trustee, may be served by leaving a true and  
391 attested copy thereof with the judge of probate [in the district where  
392 the estate is in settlement;] or probate court that appointed the  
393 nonresident executor, administrator, conservator, guardian or trustee,

394 and such judge or court shall forthwith give notice thereof to such  
 395 executor, administrator, conservator, guardian or trustee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	45a-34
Sec. 2	<i>July 1, 2012</i>	45a-45(a)
Sec. 3	<i>July 1, 2012</i>	45a-8a(f)(1)
Sec. 4	<i>July 1, 2012</i>	45a-79b(b)
Sec. 5	<i>October 1, 2012</i>	45a-55
Sec. 6	<i>October 1, 2012</i>	45a-76
Sec. 7	<i>from passage</i>	45a-287(d)
Sec. 8	<i>January 1, 2013</i>	45a-623
Sec. 9	<i>January 1, 2013</i>	45a-715(g)
Sec. 10	<i>October 1, 2012</i>	New section
Sec. 11	<i>January 1, 2013</i>	45a-316
Sec. 12	<i>January 1, 2013</i>	45a-317(a)
Sec. 13	<i>January 1, 2013</i>	New section
Sec. 14	<i>October 1, 2012</i>	45a-681
Sec. 15	<i>January 1, 2013</i>	52-60(d)
Sec. 16	<i>January 1, 2013</i>	52-61

**Statement of Purpose:**

To: (1) Codify existing practices regarding retirement contributions and calculations for administrative judges for regional children's probate courts and special assignment probate judges; (2) require the Probate Court Administrator to submit business reports to the Chief Court Administrator biennially, rather than annually; (3) provide for a probate court officer to perform certain functions in regional children's probate court matters; (4) replace "temporary administrators" with "estate examiners" with respect to certain limited investigatory powers; and (5) revise various probate court operation provisions, including those related to costs for estates of nondomiciliary testators, transfer of proceedings, review of guardianships for persons with intellectual disability, and service of process on nonresident fiduciaries.

*[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.]*