

Legislative History for Connecticut Act

SB 887

PA 93 scanned

1983

House 2435-2438	(4)
Senate 1092-1094	(3)
Judiciary 735	(1)
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Joint Standing Committee hearings, Judiciary. 1983:pt. 2

Proceedings / Connecticut General Assembly, House. 1983 v.26:pt.6

Proceedings / Connecticut General Assembly, Senate. 1983 v.26:pt.3

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House of Representatives

Wednesday, April 20, 1983

this time, it can be made anytime when it would be appropriate.

REP. FRITZ: (90th)

• I so move.

SPEAKER STOLBERG:

Is there any objection? Hearing no objection, the motion is withdrawn.

Will the Clerk please return to the call of the Calendar.

CLERK:

Page 217, Calendar 274, File 126, Substitute for Senate Bill 887, AN ACT CONCERNING RECONSIDERATION AND MODIFICATION OR REVOCATION BY COURTS OF PROBATE OF THEIR ORDERS AND DECREES. Favorable Report of the Committee on Judiciary.

REP. COLEMAN: (1st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Coleman.

REP. COLEMAN: (1st)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of this bill.

SPEAKER STOLBERG:

Will you remark?

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SPEAKER STOLBERG:

Will you remark?

REP. COLEMAN: (1st)

This bill would do two things, Mr. Speaker. First of all it would alleviate the burden of the Superior Court which at the present time is the only forum which may hear an appeal from the Probate Court, and secondly it would provide a more convenient forum for actions involving the modification or revocation of decrees or orders from the Probate Court.

Under the existing law, the only method in which a decree or order of the Probate Court may be modified or revoked, is after a successful appeal to the Superior Court or before an appeal, if a hearing is held with notices to all interested parties.

The second method would only be used in a very limited situation. This bill would change the law to allow a Probate Court to reconsider, modify or revoke any ex parte decree or order of the Probate Court on its own motion.

Additionally, the bill would make a hearing discretionary instead of mandatory where a modification or revocation is sought. With this bill, orders or decrees of the Probate Court may be reconsidered, modified or

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revoked if all interested parties consent. Secondly if there's a failure to provide legal notice to party legally entitled to such notice. Thirdly, if the action is necessary to correct a scrivener's error or a clerical error, and lastly, if there is a discovery or identification of a party in interest, unknown to the court at the time of the order or the decree.

Mr. Speaker, Judge Nehrman, the Probate Court Administrator supports this bill, and this bill has also received the unanimous support of all members of the Judiciary Committee. I urge its passage at this time.

SPEAKER STOLBERG:

Will you remark further on the bill? Will you remark further on the bill? If not, would members please take their seats. Will staff and guests please come to the well of the House. The machine will be opened.

The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately. The House of Representatives is now voting by roll. Would the members please return to the Chamber immediately.

Have all the members voted? Have all the members voted? If so, the machine will be locked and the Clerk will take a tally.

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The Clerk will announce the tally.

CLERK:

Senate Bill 887.	
Total number voting:	142
Necessary for passage:	72
Those voting yea:	142
Those voting nay:	0
Those absent and not voting:	9

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Page 17, Calendar 275, Senate Bill 870, AN ACT CONCERNING PROBATE FEES. Favorable Report of the Committee on Judiciary.

REP. ONORATO: (97th)

Mr. Speaker:

SPEAKER STOLBERG:

Rep. Al Onorato.

REP. ONORATO: (97th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence.

SPEAKER STOLBERG:

Will you remark?

## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
APRIL 12, 1983

42  
LFU

Consent Calendar.

THE CHAIR:

Hearing no objection, so ordered.

THE CLERK:

Calendar 135, File 126, Substitute for Senate Bill 887, AN ACT CONCERNING RECONSIDERATION, MODIFICATION OR REVOCATION BY COURTS OF PROBATE OF THEIR ORDERS AND DECREES, Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Santaniello, is this another matter you wish to be excused from under Rule 15?

SENATOR SANTANIELLO:

I think it would be the wise thing for me to do.

THE CHAIR:

All right.

SENATOR SANTANIELLO:

Therefore, I'd like to invoke Rule 15.

THE CHAIR:

Thank you.

THE CHAIR:

Senator Owens.

## SENATE

TUESDAY  
APRIL 12, 1983

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LFU

SENATOR OWENS:

Mr. President, I move acceptance of the Joint Committee's Favorable Report and passage of this Bill. Under existing law, a probate court is authorized under certain circumstances, to modify or revoke any decree or order made ex parte. This Bill modifies the circumstances under which an ex parte order can be revoked and in addition, it makes under specified circumstances, authorizes the judge of probate to reconsider, modify or revoke certain orders and decrees which are not ex parte. I'd ask if there is no--well, we have to have a Roll Call on it.

THE CHAIR:

Will you remark further? Clerk please make an announcement of an immediate Roll Call.

THE CLERK:

An immediate Roll Call has been called for in the Senate. Will all Senators please take their seats. An immediate Roll Call has been called for in the Senate. Will all Senators please be seated.

THE CHAIR:

Question before the Chamber is a motion to adopt Substitute for Senate Bill 887, Calendar 135, File 126. The machine is open. Please record your vote. Senator Daniels,



## 1983 GENERAL ASSEMBLY

## SENATE

TUESDAY  
APRIL 12, 1983

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Senator Schneller. The machine is closed. Clerk please tally the vote.

The result of the vote:

32 YEA

0 NAY

The Bill is adopted.

THE CLERK:

Calendar 136, File 127, Senate Bill 736, AN ACT CONCERNING MEMBERSHIP ON A MANAGERIAL SALARY REVIEW COMMITTEE, Favorable Report of the Committee on Labor and Public Employees.

THE CHAIR:

Senator Harper.

SENATOR HARPER:

Thank you Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE CHAIR

Will you remark?

SENATOR HARPER:

Yes, Mr. President. The Bill, the proposal put forth by the State Personnel Division which simply says that

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klu

JUDICIARY

March 10, 1983

JUDGE KNIERIM: (continued)

that it varies from town to town but I don't know that from firsthand knowledge.

REP. RYBAK: Thank you.

JUDGE KNIERIM: There are other features of the Bill. I think one of the most important is a requirement that every five years a person under conservatorship receive an automatic hearing. We have no review process now except that conservators of the persons are required to report to the court annually but we think that it ought to be an automatic and regular review and that is also in the Bill.

There are some time limits here for courts to act on and some other miscellaneous items which I covered in my written testimony.

Senate Bill 887, An Act Concerning Reconsideration and Modification or Revocation by Courts of Probate of Orders and Decrees, this Bill addresses a mechanical problem in courts of probate where present statute limits us in how we can change a decree even though all parties to an estate want a decree changed. A situation has arisen which was not known by the Court or by the parties when the estate was processed and under present law we can't change our decree. That group of people involved in that estate now has to go to Superior Court to get a Probate Court decree changed. We proposed, under very limited circumstances in this Bill, the authority on our part, to modify our decrees within 120 days after the decree is entered and only if all parties agree or if it's a clerical or scribe's error or notice was not sent to a party and the circumstances are set out pretty clearly in the Bill.

I have a Substitute Bill because of some problems in the language which I have attached to my testimony but it doesn't change the meaning and import of the Bill.

House Bill 6982, An Act Concerning Examination of Witnesses. Probate Courts are permitted under present statute, 45-262, to conduct a hearing on estates if an interested party files a request with us. There is no