

Legislative History for Connecticut Act

HB 5468 (PA 219) 1998

House 976, 1410-1411, 2138,
3887-3894, 5174-5178 (17)

Senate 2657-2661 (5)

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H-783

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1998

VOL. 41

PART 3

678-1059

gmh

House of Representatives

Wednesday, April 8, 1998

REP. STILLMAN: (38TH)

Thank you, Mr. Speaker. I move that that be referred to the Finance, Revenue and Bonding Committee.

SPEAKER RITTER:

So ordered.

Clerk, please call Calendar 253.

CLERK:

On page 16, Calendar 253, Substitute for House Bill Number 5468, AN ACT CONCERNING PROBATE COURTS.

Favorable Report of the Committee on Judiciary.

SPEAKER RITTER:

Representative Stillman.

REP. STILLMAN: (38TH)

Thank you, Mr. Speaker. I move that that be referred to the Appropriations Committee.

SPEAKER RITTER:

So ordered.

Clerk, please call Calendar 254.

CLERK:

On page 16, Calendar 254, Substitute for House Bill Number 5512, AN ACT CONCERNING ASSIGNMENT OF LOTTERY WINNINGS. Favorable Report of the Committee on Judiciary.

SPEAKER RITTER:

Representative Stillman.

H-784

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1998

VOL. 41

PART 4

1060-1415

rlf

House of Representatives

April 18, 1998

Is there any business on the Clerk's desk?

THE CLERK:

Yes, Madam Speaker. The Clerk has a list of referrals in accordance with House Rule 20(e). A written expression of agreement between the Majority Leader and the Minority Leader is in the possession of the Clerk.

SPEAKER CURREY:

I recognize Representative Doyle of the 28th District.

REPRESENTATIVE DOYLE: (28th)

Thank you, Madam Speaker. I would move the following bills under House Rule 20(e): to the Committee on Public Health H.B. No. 5468, to the Committee on Judiciary H.B. No. 5712, to the Committee on Planning and Development H.B. No. 5073, to the Committee on Legislative Management H.B. No. 5418, to the Committee on Government Administration and Elections H.B. No. 5673, to the Committee on Human Services H.B. No. 5745, to the Committee on Legislative Management H.B. No. 5560, to the Committee on Legislative Management H.B. No. 5421, to the Committee on Environment H.B. No. 5589, to the Committee on Legislative Management H.B. No. 5599, to the Committee on Government Administration and Elections H.B. No.

rlf

House of Representatives

April 18, 1998

5335, to the Committee on Legislative Management H.B.
No. 5701, to the Committee on Appropriations H.B. No.
5323, to the Committee on General Law H.B. No. 5500.

SPEAKER CURREY:

Hearing no objection, so ordered.

THE CLERK:

Madam Speaker, there's no further business on the Clerk's desk.

SPEAKER CURREY:

The Chair recognizes Representative Doyle.

REPRESENTATIVE DOYLE: (28th)

Thank you, Madam Speaker. There being no further business on the Clerk's desk, I move that we adjourn subject to the Call of the Chair.

SPEAKER CURREY:

Hearing no objection, the House stands adjourned.

On motion of Representative Doyle of the 28th District, the House adjourned at 10:10 o'clock a.m., to meet again at the Call of the Chair.

H-787

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1998

VOL. 41

PART 7

2111-2449

rlf

House of Representatives

April 26, 1998

Administration and Elections Bill No. 5328, to the
Committee on Planning and Development Bill No. 5734, to
the Committee on Public Safety Bill No. 5515, to the
Committee on Finance, Revenue and Bonding Bill 5500, to
the Committee on Finance, Revenue and Bonding Bill No.
5373, to the Committee on Planning and Development Bill
No. 5430, to the Committee on General Law Bill No.
5660, to the Committee on Commerce Bill No 5483, to the
Committee on Education Bill No 5719, to the Committee
on General Law Bill No. 5468, to the Committee on
Education Bill No. 5381, to the Committee on Insurance
and Real Estate Bill No. 5546.

SPEAKER CURREY:

Hearing no objection, so ordered.

THE CLERK:

Madam Speaker, the Clerk has in her possession a communication from the Majority Leader to the Minority Leader concerning Consent Calendar designations pursuant to House Rule 43. A written expression of agreement between the Majority Leader and Minority Leader is in possession of the Clerk.

SPEAKER CURREY:

Representative Christ.

REPRESENTATIVE CHRIST: (11th)

Madam Speaker, at this time I would move that the

H-791

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1998

VOL. 41
PART 11
3573-3970

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House of Representatives

Saturday, May 2, 1998

CLERK:

On page 26, Calendar 253, Substitute for House Bill Number 5468, AN ACT CONCERNING PROBATE COURTS. Favorable Report of the Committee on General Law.

SPEAKER RITTER:

Chairman Lawlor. You have the floor, sir.

REP. LAWLOR: (99TH)

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

SPEAKER RITTER:

The motion is on acceptance and passage in concurrence with the Senate. Please proceed, sir.

REP. LAWLOR: (99TH)

Thank you, Mr. Speaker. This bill represents some significant changes to the jurisdiction of the probate courts throughout our state. Part of the reason for these changes is that with the recent passage of laws changing the way that the succession tax is imposed and in many cases, eliminating the succession tax, it has decreased the work of the probate courts. In light of that, it has been, in effect, they have been freed up to perhaps take on some other types of cases which are very similar to the kinds of cases that they are presently handling.

House of Representatives

Saturday, May 2, 1998

For example, the involuntary commitment of drug abusers and alcohol abusers and other persons in that category. These, in many cases, are done by the probate courts, but not in all cases and this bill adds some of those types of jurisdiction to the jurisdiction of the probate court.

SPEAKER RITTER:

Will you remark further?

REP. LAWLOR: (99TH)

Mr. Speaker.

SPEAKER RITTER:

Yes.

REP. LAWLOR: (99TH)

The Clerk has -- can we just have one moment, Mr. Speaker?

SPEAKER RITTER:

Sure. The chamber will stand at ease, sir.

REP. LAWLOR: (99TH)

Thank you, Mr. Speaker. The Clerk has LCO Number 4390. I would ask that the Clerk call and I be permitted to summarize.

SPEAKER RITTER:

The Clerk has LCO 4390. If he may call it and Representative Lawlor would like to summarize.

CLERK:

gmh

House of Representatives

Saturday, May 2, 1998

LCO Number 4390, House "A" offered by
Representative Lawlor.

SPEAKER RITTER:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Mr. Speaker. This amendment contains technical changes to one portion of the bill relating to the commitment of persons who are drug or alcohol dependent. Again, I would emphasize these are technical changes suggested by the probate court administrator after reviewing the content of the bill.

I urge adoption.

SPEAKER RITTER:

The question is on adoption. Will you remark further? If not, I will try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER RITTER:

Those opposed, no. The ayes have it. The
resolution is adopted.

Will you remark further? The amendment is
adopted. Excuse me.

Representative Lawlor.

REP. LAWLOR: (99TH)

gmh

House of Representatives

Saturday, May 2, 1998

Thank you, Mr. Speaker. The Clerk has LCO Number 4020. I would ask that the Clerk call and I be permitted to summarize.

SPEAKER RITTER:

The Clerk has LCO 4020. If he may call it and then Representative Lawlor would like to summarize.

CLERK:

LCO Number 4020, House "B" offered by Representative Lawlor.

SPEAKER RITTER:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Mr. Speaker. This bill changes from 10 to 7 the number of days during which the probate court must act on these circumstances. This has been the result of negotiations between mental health advocates and the probate court administrators.

I urge adoption.

SPEAKER RITTER:

The question is on adoption, Representative Lawlor?

REP. LAWLOR: (99TH)

Yes, Mr. Speaker.

SPEAKER RITTER:

The question is on adoption. Will you remark

gmh

232

House of Representatives

Saturday, May 2, 1998

further? If not, I will try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER RITTER:

Those opposed, no. The ayes have it. The
amendment is adopted.

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Mr. Speaker. The Clerk has LCO Number 4581. I would ask that the Clerk call and I be permitted to summarize.

SPEAKER RITTER:

The Clerk has LCO 4581. It he may call it and Representative Lawlor would like to summarize.

CLERK:

LCO Number 4581, House "C" offered by
Representative Lawlor.

SPEAKER RITTER:

Representative Lawlor.

REP. LAWLOR: (99TH)

Thank you, Mr. Speaker. This amendment clarifies -- sorry, this amendment expands on authority that we gave to the probate court last in Public Act 97-73. Last year a concern was raised to our committee that in

gmh

House of Representatives

Saturday, May 2, 1998

some cases conservators who are appointed by the probate courts to handle the financial affairs of persons who are not competent to handle their own affairs. In some cases they were extremely late in paying the legitimate bills of the person involved. Last year we only gave the authority to make, in essence, to make a complaint to the probate court about the tardiness of the conservator in cases involving payments under the supplemental security income program. We've been asked to expand that to any bills owed by the incompetent person regardless of what the source of their income is. So, in other words, in some cases they may have a pension. In other cases they may have an annuity. And, of course, in the case where they have state assistance including the supplemental security income.

All this does is it says that when a conservator is late in paying the bills, the person to whom the bills are owed can go to the probate court and ask for the conservator to be brought in to explain why the bills are tardy and in effect theoretically, the probate court appoint a different conservator if that conservator was not being timely in paying the bills.

I urge adoption, Mr. Speaker.

SPEAKER RITTER:

gmh

House of Representatives

Saturday, May 2, 1998

The question is on House "C". Anyone else care to comment? It's a very important subject. If not, I will try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER RITTER:

Those opposed, no. The ayes have it. House "C" is adopted.

Will you remark further on this bill, as amended by House "A", "B", and "C"? If not, staff and guests, come to the Well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

SPEAKER RITTER:

Have all the members voted? Please check the roll call machine to make sure your vote is properly recorded. If it has, the machine will be locked.

Clerk, please take the tally.

Clerk, please announce the tally.

CLERK:

House Bill Number 5468, as amended by House

gmh

House of Representatives

Saturday, May 2, 1998

Amendment Schedules "A", "B", and "C"

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	0
Those absent and not voting	5

SPEAKER RITTER:

Easy for you to say. The bill, as amended passes.

Why doesn't the chamber stand at ease for just a couple of minutes and then we will come back and start our tax package. Okay. Oh, we do have another one. Okay. We won't stand at ease. We will do another quick bill and then we'll do the tax package.

Clerk, please call Calendar 311.

CLERK:

On page 33, Calendar 311, House Bill Number 5740,
AN ACT CONCERNING THE RIGHTS AND DUTIES OF BICYCLISTS,
as amended by House Amendment Schedule "A" and Senate
Amendment Schedules "A" and "B". Favorable Report of
the Committee on Transportation. The Senate adopted
Senate Amendment Schedules "A" and "B" on April 30th.

SPEAKER RITTER:

If we only had this bill passed earlier,
Representative Lawlor. You have the floors, sir.

REP. LAWLOR: (99TH)

H-795

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1998

VOL. 41
PART 15
4928-5327

kmr

House of Representatives

Wednesday, May 6, 1998

by roll call, members zoom to the Chamber please.

DEPUTY SPEAKER HARTLEY:

Have all members have voted? Please check that your vote is properly recorded. If so please check the roll call machine, the machine will now be locked. Clerk please take a tally. Clerk please announce the tally.

CLERK:

SB523 in concurrence with the Senate.

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not voting	4

DEPUTY SPEAKER HARTLEY:

Bill is passed. Will the Clerk please call Calendar 253.

CLERK:

On page twenty-eight, Calendar 253, substitute for HB5468. AN ACT CONCERNING PROBATE COURTS. As amended by House amendment schedules "A" and "B" and "C" the Senate has adopted Senate "A." Favorable report of the Committee on General Law.

DEPUTY SPEAKER HARTLEY:

Representative Lawlor, you have the floor sir.

kmr

House of Representatives

Wednesday, May 6, 1998

REP. LAWLOR: (99th)

Thank you Madam Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER HARTLEY:

Question is acceptance and passage in concurrence with the Senate, will you please remark?

REP. LAWLOR: (99th)

Thank you Madam Speaker. It's my understanding that there's no need to readopt House "A", "B", and "C" and so for that reason Madam Speaker I'd like to call LCO 6602 which has previously designated as Senate amendment "A" and I be granted permission to summarize.

DEPUTY SPEAKER HARTLEY:

Question is adoption, Clerk is in receipt of LCO 6602 previously designated Senate amendment "A" will the Clerk please call.

CLERK:

LCO 6602 Senate "A" offered by Senator Williams.

DEPUTY SPEAKER HARTLEY:

Representative Lawlor has asked leave to summarize, without objection proceed sir.

REP. LAWLOR: (99th)

Thank you Madam Speaker. This language adds additional clarity as a result of negotiations

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House of Representatives

Wednesday, May 6, 1998

regarding a bill earlier passed in the House of Representatives, HB5694. It builds in consumer protections, for the assignment of certain types of annuities under law, I urge adoption Madam Speaker.

DEPUTY SPEAKER HARTLEY:

The question is adoption of Senate amendment "A" will you remark? Will you remark further? If not, I'll try your minds. All those, Representative Farr, you have the floor.

REP. FARR: (19th)

Yes, Madam Speaker, I would urge adoption of the amendment too. I'll just point out to the members that it is a rather unique amendment in that it amends a bill previously adopted, but I believe not signed into law yet. So in hope, hopefully the bill this is amending will also be adopted and we won't have any problems. But for legislative intent, it is our intent to amend that previous bill. Thank you.

DEPUTY SPEAKER HARTLEY:

Thank you sir, will you remark further on Senate amendment "A"? Will you remark further on Senate amendment "A"? If not I'll try your minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

kmr

House of Representatives

Wednesday, May 6, 1998

DEPUTY SPEAKER HARTLEY:

Those opposed no. The ayes have it the amendment is adopted. Will you remark further on the bill as now amended? Will you remark further? If not, staff and members come to the well, members kindly take your seat, the machine will now be open.

CLERK:

The House of Representatives is voting by roll call members to the Chamber. The House is voting by roll call, members to the Chamber please.

DEPUTY SPEAKER HARTLEY:

Have all members have voted? Please check the roll call machine to see that your vote is properly recorded. If so the machine will now be locked. Clerk please take a tally. Clerk please announce the tally.

CLERK:

HB5468 as amended by House amendment schedules "A", "B", and "C" and Senate amendment schedule "A" in concurrence with the Senate.

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	143
Those voting Nay	0
Those absent and not voting	8

DEPUTY SPEAKER HARTLEY:

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House of Representatives

Wednesday, May 6, 1998

Bill as amended is passed. Will the Clerk please call Calendar 509.

CLERK:

On page twelve, Calendar 509, substitute for SB328. AN ACT CONCERNING THE NONDISCLOSURE OF CERTAIN SENIOR CENTER INFORMATION UNDER THE FREEDOM OF INFORMATION ACT. Favorable report of the Committee on Government Administration and Elections. The Senate has adopted Senate amendment schedule "A."

DEPUTY SPEAKER HARTLEY:

Representative Villano, you have the floor sir.

REP. VILLANO: (91st)

Madam Speaker I move approval of the bill in conformance with the Senate.

DEPUTY SPEAKER HARTLEY:

Question is acceptance and passage in concurrence with the Senate, will you remark please?

REP. VILLANO: (91st)

Thank you Madam Speaker. The Clerk has an amendment, LCO 4708, Senate amendment "A" I ask that the Clerk please call and I be allowed to summarize.

DEPUTY SPEAKER HARTLEY:

Clerk is in possession of LCO 4708 previously designated Senate amendment "A" will the Clerk please call.

S-426

CONNECTICUT

GEN. ASSEMBLY

SENATE

PROCEEDINGS

1998

VOL. 41

PART 9

2607-2824

pat

51

Senate

May 5, 1998

ASSEMBLY:

No.

THE CHAIR:

Nays have it. The amendment fails. Will you
remark further on the bill? Will you remark further?
Senator Looney.

SEN. LOONEY:

Thank you, Madam President. If there is no
objection, I would move this item to the Consent
Calendar.

THE CHAIR:

Motion is to refer this item to the Consent
Calendar. Without objection, so ordered.

THE CLERK:

Calendar Page 5, Calendar 478, Files 312 and 674,
Substitute for HB5468 An Act Concerning Probate Court
as amended by House Amendment Schedules "A", "B" and
"C". Favorable Reports of the Committees on Judiciary,
Appropriations, Public Health and General Law.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. Madam President, I
move adoption of the Joint Committee's Favorable Report
and passage of the bill in concurrence with the House.

pat

Senate

May 5, 1998

THE CHAIR:

The question is on passage in concurrence. Will you remark?

SEN. WILLIAMS:

Yes, thank you, Madam President. This bill makes certain jurisdictional, financial and procedural changes to the probate court laws.

Specifically, it transfers from the superior to the probate court, jurisdiction over civil commitment, or drug or alcohol dependent people. It gives the probate court jurisdiction concurrent with superior court to hear emancipation cases.

It gives probate courts that already receive reports on cemetery funds jurisdiction over actions for an accounting of such funds.

It treats probate court judges like other state judges by exempting them from jury duty and makes certain other technical changes.

Madam President, I would like to call LC06602.

THE CLERK:

LC06602 which will be designated Senate Amendment Schedule "A". It is offered by Senator Williams of the 29th District.

THE CHAIR:

Senator Williams.

pat

53

Senate

May 5, 1998

SEN. WILLIAMS:

Madam President, I would yield to Senator Looney.

THE CHAIR:

Senator Looney, do you accept the yield?

SEN. LOONEY:

Yes, I do, Madam President. Thank you. In this matter, Madam President, I am exempting myself under Rule 15.

THE CHAIR:

The Journal will so note. Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. I move adoption of the amendment.

THE CHAIR:

The question is on adoption. Will you remark?

SEN. WILLIAMS:

Madam President, the amendment concerns assignment of lottery prizes and the Connecticut Lottery Corporation amended its rules of operation in order to allow lottery winners to assign their lottery prizes provided certain requirements were satisfied.

The Connecticut Lottery Corporation required a court order stating that the person is entitled to receive the future lottery payments. However, courts in Connecticut had some initial concerns about the

pat

54

Senate

May 5, 1998

Lottery Corporation attempting to in part, jurisdiction on the courts via an administrative rule and this amendment would eliminate any jurisdictional concerns.

THE CHAIR:

The question is on adoption of Senate Amendment "A". Will you remark? Will you remark? If not, I will try your minds. All those in favor indicate by saying "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Opposed, "nay"? Ayes have it. Senate "A" is adopted. Will you remark further on the bill? Senator Williams.

SEN. WILLIAMS:

If there's no objection, I would move this to the Consent Calendar.

THE CHAIR:

I'm sorry, Senator, but with an individual using Rule 15.

SEN. WILLIAMS:

You are absolutely right, Madam President.

THE CHAIR:

Are there other comments? If not, would the Clerk please announce a roll call vote. The machine will be

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Senate

May 5, 1998

opened.

THE CLERK:

An immediate roll call has been ordered in the
Senate. Will all Senators please return to the
Chamber.

An immediate roll call has been ordered in the
Senate. Will all Senators please return to the
Chamber.

THE CHAIR:

Have all members voted? If all members have
voted, the machine will be locked. The Clerk please
take a tally.

THE CLERK:

Motion is on passage of HB5468 as amended.

Total number voting, 34; necessary for passage,
18; those voting "yea", 34; those voting "nay", 0.
Those absent and not voting, 2.

THE CHAIR:

The bill is passed.

Senator Coleman.

SEN. COLEMAN:

Madam President.

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 4
992-1321

1998

Next is Judge Paul Kurmay of the Probate Court system. Judge Kurmay.

JUDGE PAUL KURMAY: Good afternoon. Thank you for giving me this opportunity to speak to you again. I come before the committee to speak primarily about HB5468. It's basically an omnibus probate bill that concerns many aspects of probate law.

I have given you written comments that I'm not going to read. You certainly can read it on your own. And not to bore you or to delay these proceedings any longer, let me summarize the portions of these presentations, if I may. And if you have any questions from item to item, please feel free to ask as we go along.

Section 1 of HB5468 deals with the modification of the assessment formula by which probate judges pay assessments into the Office of Probate Court Administrator. It is a very fundamental financial requirement of every court. This proposal would do a number of things. It attempts to make more equitable and more proportional the compensation paid to our probate judges by way of the assessment formula.

It also does a number of other things. For the very first time it proposes that workload, the workload of the judge be considered in terms of determining the assessment and ultimately the compensation to the judge. As you probably know, the highest court -- the highest paid probate judges receive a salary up to 75% of that paid to a Superior Court judge. That sets the top bracket of compensation for our probate judges. They consist of approximately seven courts with a maximum population of 70,000 and above.

Below that, all the other 132 -- a total of 132 probate courts follow. This bill would attempt to make more equitable, fair, reasonable, and proportional basically the compensation that falls below those highest levels. It imposes a parameter setting those fees based upon workload. We call it "weighted workload" which takes into consideration not only the actual case, but the weight of the

16
gmh

JUDICIARY COMMITTEE

March 9, 1998

case in terms of its difficulty or the administrative burden of carrying and deciding a case on that basis.

So, that first section is extremely important and it is innovative. I believe it is much better than our present system and I encourage you to enact it, if you would.

Are there any questions on that particular section before I move on to the others?

REP. LAWLOR: Judge, if -- we have quite a few people signed up to testify on this first hour. We only have one-half hour left and about 20 people to go -

JUDGE PAUL KURMAY: Oh, God.

REP. LAWLOR: So if you could sort of summarize a little bit.

JUDGE PAUL KURMAY: I sure will. I sure will. The section phase of the legislation -- the proposed legislation before you considers changes and increases in the court's jurisdiction. Most of these would be shared concurrently with the Superior Court judges. One in particular would be an exclusive grant of authority to the Probate Court, that dealing with the commitment of individuals who were drug addicted or alcohol addicted. The procedure very much parallels the proceedings that we presently have for the commitment of those suffering from mental illness or are dangerous to themselves or others.

The other matters before you are basically technical in nature. There is one that I do not want to try to blow by you in any way that would exempt probate judges from jury duty. As is the present case with Superior Court judges and the other judges and justices of our state.

I have mixed feelings about the proposal myself. All of us have an obligation to, I believe, to share in jury duty, but the pragmatic conclusion is and the pragmatic result is it's very, very

17
gmh

JUDICIARY COMMITTEE

March 9, 1998

unlikely for a probate judge to actually be impanelled because of the judge's knowledge of so many of the parties, the judges, the other attorneys, and therefore going through that whole process usually results in a big waste of time not because we don't want to serve, but because we usually are not able to serve.

The last measure and I am summing up, which streamlines substantially our decedents probate court procedures to make them far more user friendly and to reduce the number of required hearings and to also simplify the accounting process by which fiduciaries render final accounts.

It is pro-consumer. It is consumer friendly, and it also provides a great deal of public notice to the beneficiaries and other parties coming before the court.

In a very, very quick way, that's a very fast and loose summary of what I'm bringing before you and I'd be happy to try to unpack any provision that I went too quickly on.

SEN. COLEMAN: Are there any questions from members of the committee? Seeing none, thank you, Judge for your testimony.

JUDGE PAUL KURMAY: Thank you very much.

SEN. COLEMAN: Next up would be Magistrate Paul Matasavage and it may appear that this may be dual testimony.

UNIDENTIFIED SPEAKER: We've agreed to exchange our position with Judge Ment and take his position which is further down the list.

SEN. COLEMAN: Okay. If there are no objections from members of the committee, that will be permissible. Judge Ment.

JUDGE AARON MENT: Thank you, Senator. They extracted a promise from me to be brief. And I will do so.

The first bill is SB566, AN ACT CONCERNING JUDGES,

MAGISTRATES, AND REFEREES. I really have three sentences on that bill. The first is that I certainly would support Section 1 of the bill which would raise the salaries of judges and also that of magistrates.

We have given to you a copy of some comparables that we think are important for you to look at and simply on that note -- on the note by saying that we support the Commission of Elected Officials and Judges' recommendation.

The second part of the bill that I want to speak on briefly is that part which would allow judge trial referees to preside over the voir dire in criminal matters and in GA arraignments. I think that would be a very good use of our judge referees. It would certainly help resolve the voir dire issue that has been with us for several years.

There is a provision that bill that would also them to sit on civil voir dire. That is not critical to us. It's the criminal voir dire and the GA arraignment where we think we could best use their services.

The next bill is SB54. This is a bill that would add 15 judges to the compliment of judges presently in the Superior Court. I would say just two or three things on that bill.

One, is that Connecticut is one of eleven unified courts. The average judge per 100,000 in those eleven courts is 6.2. Connecticut is 5.3 or 17% less. Considering the fact that we are highly a densely populated state and that we rank among the highest in the number of filings per 100,000 I think it makes sense to add those additional judges. Those judges are included in the Governor's proposed budget and I would urge the Judiciary Committee to favorably act upon that recommendation.

Those judges would basically be on the civil side, however, I would point out that there is an additional need on the juvenile side, as well. The number of cases has been rising each and every

19
gmh

JUDICIARY COMMITTEE

March 9, 1998

year. We expect that to continue to rise, specifically on the neglect and abuse side because of changing federal legislation.

In addition to the 15 judges in this bill, I think you may hear again from OPM about the need for four additional judges. That is, additional to the 15. That is also because of changes in the federal legislation that will require Connecticut to process cases more quickly in order to retain what I believe is about \$70 million that are now received in this area from the federal government.

The last bill that I would like to mention very briefly is SB448, AN ACT CONCERNING TRUANCY. This bill would require us to expand the truancy docket that we presently have in New Haven to Tolland and New London Counties. We support the concept of expanding that truancy court. I'm a little bit uneasy with doing it in a legislative manner. I will tell this committee that we will expand it in those counties and everywhere else as we're able to do so. A lot of that will depend upon your action in the bill previously discussed, SB54 which would give us the additional judge power that would be needed and also your action in what I believe will come before you in a request for additional judges on the juvenile side. I believe that request from OPM will be for four additional judges or a total of 19.

My last comment in this area is that if in fact the Legislature acts favorably on community court bills pending before it, that would require still again additional judgeships.

Thank you.

SEN. COLEMAN: Thank you, Judge. Are there any questions from members of the committee? Senator Somma.

SEN. SOMMA: Thank you, Mr. Chairman. I just had a quick question, Judge. In your comparison on salaries, you gave a comparison of federal judges versus state judges and what the annual salaries were. Can you tell me what the comparison is

between cases handled by federal trial court judges versus state?

JUDGE AARON MENT: I can only guess and say that our judges probably handle 50 times as many. The number of filings in federal court is minuscule compared to the number of filings in state courts. I can get you exact numbers and we will be glad to furnish the committee with that because the National Center for State Courts did a study on it in a work called, "Examining State Courts" and I know that was studied and I will get you those figures precisely.

SEN. SOMMA: And what other states. I would appreciate it if you have any information with the state trial court. Thanks.

JUDGE AARON MENT: Yes.

REP. LAWLOR: Any further questions? If not, thank you very much, Judge.

JUDGE AARON MENT: Thank you.

REP. LAWLOR: Next is --

JUDGE AARON MENT: Excuse me, Representative Lawlor.

MELISSA FARLEY: Can we go quick? We will be really fast.

REP. LAWLOR: Okay.

JUDGE AARON MENT: We're still going.

MELISSA FARLEY: HB5323, AN ACT CONCERNING VICTIM SERVICES. My testimony goes through and explains each section of the bill. We are asking for an amendment for Section 2 to alleviate a concern on the part of the non-profit organizations that were concerned that we were looking to shift funding from non-profit organizations for training and public education campaigns.

HB5476, AN ACT CONCERNING ASSAULT OF EMPLOYEES OF THE DIVISION OF JUVENILE DETENTION SERVICES AND THE

21
gmh

JUDICIARY COMMITTEE

March 9, 1998

DEPARTMENT OF CHILDREN AND FAMILIES were submitted as part of the Judicial branch's legislative package and we are very supportive of that bill.

And I have included written testimony on HB5501, AN ACT CONCERNING ZERO TOLERANCE DRUG PROBATION AND PAROLE PROGRAM and HB5638, AN ACT CONCERNING THE SIGNING OF LEGAL DOCUMENTS.

DEBORAH FULLER: And finally -- I'm Deborah Fuller on behalf of the Judicial Branch to testify on a few bills. I'll do it quickly.

The first is HB5696, AN ACT CONCERNING JUVENILE MATTERS. This would --

REP. LAWLOR: Can't hear you.

DEBORAH FULLER: This was submitted as part of our legislative package. And we support this bill and urge the committee to favorably consider it. A bill that's closely related, HB5697, AN ACT CONCERNING JUVENILE OFFENDERS. I would just like to comment on Section 1 of the bill appears to do some of what the previous bill that I testified on does to make it clear that the Superior Court for Juvenile Matters retains jurisdiction over children on probation or suspended commitment after they reach age 16.

I would suggest that any substitute language include the new language from both bills just to make it absolutely clear.

Section 2 of the bill would change the procedure for transfer of cases of juveniles charged with Class A and B felonies. We're concerned that this would entail requiring extra proceeding in juvenile court and would place an additional burden on the courts.

SB519, AN ACT CONCERNING PROBABLE CAUSE HEARINGS. While the Judicial Branch is opposed to the general concept of prohibiting judges who have signed a warrant from presiding over probable cause hearings on those warrants, since this bill is narrowly tailored only to apply to cases of capital

22
gmh

JUDICIARY COMMITTEE

March 9, 1998

felonies, we would not object to this bill. However, we certainly would object to any future expansion of that prohibition.

HB5541, AN ACT CONCERNING COMMITMENTS FOR RESTORATION OF COMPETENCY. We're opposed to this bill as it would limit a judge's discretion in making a determination as to what type of treatment and a defendant who has been found incompetent could be ordered to by the judge.

And finally, HB5468, AN ACT CONCERNING PROBATE COURTS. There is sections 8 - 11 of that create (inaudible) jurisdiction for the emancipation of minors in the Superior Court for Juvenile Matters and Probate Courts. We are concerned that this dual jurisdiction could lead to confusion and would ask that the committee carefully consider that.

Thank you.

REP. LAWLOR: Thank you. Are there any questions?
Representative Winkler.

REP. WINKLER: Thank you, Mr. Chairman. Hi, Melissa. Just a quick question. On HB5476 are there many cases of assault on DCF employees that are detention -- juvenile detention services that warranted this? Do you know?

MELISSA FARLEY: I don't know the exact number, but it's an issue that came up, particularly during the time period when we had juveniles up in Enfield. I think there were a couple of incidents at that time and it was a proposal that came up from that situation. I'll be happy to get you some more specific numbers, but this is something that we did work with the Department of Children and Families on. They had some concerns as well, but I'll get you the numbers.

REP. WINKLER: Thank you.

REP. LAWLOR: Thank you very much. Are there further questions? If not, next is Representative Peter Panaroni, Representative Pat Widlitz, Senator Aniskovich, and First Selectman DaRos.

for something to do with their time.

This is the attitude we must fight and this is why this bill is so important.

This legislation is long overdue. We're some 20 years behind our brothers and sisters who work for the State of Connecticut and I ask that you support it.

Thank you.

SEN. WILLIAMS: Questions? Thank you very much.

Is James McGaughey -- I believe that's the name. Very close. Well, that's a good thing.

Sylvia Tirrell will then be up next.

JAMES MCGAUGHEY: Good afternoon, Senator Williams. My name is Jim McGaughey. I am the Executive Director of the Office of Protection and Advocacy for Persons with Disabilities.

I'm here to talk about several bills that on the committee's agenda today. I'd like to start, actually with SB578, AN ACT CONCERNING CRIMES AGAINST PERSONS WITH MENTAL RETARDATION.

I have submitted detailed or if not detailed, at least written testimony so I won't read it. I'll just summarize what it says.

But basically this bill would include people with mental retardation along with elderly people, blind people, and people with physical disabilities in certain provisions of the penal code that afford special protections and additional sanctions for crimes involving physical assault against them.

The provisions of the penal code -- these provisions of the penal code recognize the unique vulnerability of disabled and elderly people to crimes of violence and they seek to impose penalties that are commensurate with those crimes. Based on our experience investigating allegations of abuse and neglect against mentally retarded

adults and securing protective services for them, we strongly support this measure.

Basically, each year we receive about 1,100 allegations of abuse or neglect concerning adults with mental retardation. That reduces down to approximately 300 to 350 allegations involving physical abuse and of that, some percentage and nobody's quite sure exactly what the percentage is, would also amount to or add up to allegations of physical assault under the criminal law. We are required to refer substantiated abuse to -- when we substantiate abuse we make referrals to the State's Attorneys and we also assist police departments in conducting investigations, interviewing victims, and so forth when the allegations are very clearly criminal in nature.

I guess the reason that I think this bill is necessary and in fact would be good policy is that many more people -- it's our experience that many more people with mental retardation are physically assaulted than are ever received justice in the courts in terms of prosecution for those crimes. And there's a lot of factors that contribute to that, not of all of which we can do much about.

Sometimes the obstacles to justice involve are evidentiary in nature. And particularly with the victim's vulnerability is not only being vulnerable to the crime, but being vulnerable on the witness stand and I don't know that we can solve that problem here.

But it's our office's experience that it's equally problematic that these cases are often simply not taken very seriously. In the high volume business of criminal justice, I think from the perspective both of the State and of defense, the degree of seriousness to which a crime is viewed is often measured by the penalty that's established for it. And because of that, I would urge your support for this bill.

I did submit testimony. I just want to mention briefly on raised HB5540, AN ACT CONCERNING ANNUAL REVIEWS FOR CIVILLY COMMITTED PATIENTS. Basically,

we think that this brings -- would bring the law into alignment with good current practice in the mental health field. Raised HB5541, AN ACT CONCERNING COMMITMENTS FOR RESTORATION OF COMPETENCY. We like the concept behind this bill. We understand virtually everyone seems to have problems with it and if there's any interest in working out language that addresses those problems, we're willing to participate in those discussions.

Raised HB5476, AN ACT CONCERNING ASSAULT OF EMPLOYEES OF THE DIVISION OF JUVENILE DETENTION SERVICES AND THE DEPARTMENT OF CHILDREN AND FAMILIES. Our only concern there is there seems to be no explicit provision for assaults that occur in the context of psychiatric hospitals for children where children are being treated for -- in fact, being assaulted. That's part of their mental illness and we want to make sure that those children are not subject to a criminal charge when, in fact, any behavior they engage in is a result of their mental illness.

And lastly, we also submitted testimony on raised HB5468, AN ACT CONCERNING THE PROBATE COURTS. Our office is particularly supportive of section 18 which would enable probate courts to appoint limited conservators of the person and of the estate.

SEN. WILLIAMS: Okay. Thank you. We're out of time. Any questions? Thank you very much.

Sylvia Tirrell to be followed by Ann Creech.

SYLVIA TIRRELL: Members of the Judiciary Committee, I'm Sylvia Tirrell, an administrative assistant with the Department of Mental Health and President of AFSCME Local 562 State Clerical Employees. I'm here to talk about HB5674 regarding pay equity.

Twenty-one years ago I started as a clerk typist at less than I was receiving from unemployment. Shortly afterwards I discovered that although I was the only secretary in a department of 60 people I was being paid less than a man who was a Maintainer 1. His job was scraping the dishes in the kitchen

JOINT
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HEARINGS

JUDICIARY
PART 5
1322-1686

1998


 STATE OF CONNECTICUT
 OFFICE OF THE
 PROBATE COURT ADMINISTRATOR

JUDGE F. PAUL KURMAY
 ADMINISTRATOR
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MARCH 9, 1998

TO: MEMBERS OF THE JUDICIARY COMMITTEE
FROM: JUDGE F. PAUL KURMAY, PROBATE COURT ADMINISTRATOR
RE: H.B. 5468 AAC PROBATE COURTS

I come before you today in support of H.B. 5468, which contains several measures which affect the probate courts of our State. In general, they concern three aspects of the court system: financial, jurisdictional and procedural. To be more coherent, I will address my remarks to each type of Bill, in the approximate order in which they appear in the Raised Bill.

I. Section 1. Modification of the assessment formula by which probate judges pay assessments to the Office of Probate Court Administrator.

Section 1 amends Section 45a-92, which provides the basis for determining the amount of assessment which each probate judge must pay to the Office of Probate Court Administrator. As you know, it is that Fund which supports and pays for the state-wide activities of the entire probate system, including the expenses of my Office. This Bill alters the formula for computing that assessment. In the past, the formula was based **exclusively** on the revenues of each court. Accordingly, those courts with a wealthier population generally paid more into the Fund than the less wealthy courts; and, since the compensation paid to the judge is the balance remaining after the payment of all reasonable court expenses and the assessment to this Office, judges in wealthier districts tended to earn more than their counterparts in poorer districts, regardless of the work actually performed.

The Probate Assembly and this Office studied that apparent inequity and, following a great deal of study and the overwhelming support of the Assembly members, created a new component to the formula which would take into consideration the work performed by each court, in addition to the revenues received by that court. You will see reference to the word, "weighted-workload." That means that each matter handled by a probate court is given a certain weight, the more difficult cases receiving a higher weight and the less difficult ones receiving a lower weight. For example, a simple change of name application might carry a

weight of one, and the commitment of a mentally-ill individual might carry a weight of five. Each year, the total weighted-workload of each court would be tabulated and the judge's compensation would be no less than fifteen dollars per weighted-workload and no greater than seventy two dollars per matter. However, no court could ever exceed the compensation paid to the seven most populated courts (sometimes called "maximum courts"), which is fixed by statute at 75% of that of a superior court judge. So that no judge's compensation would be automatically reduced by this formula, the Bill provides a minimum compensation level of no less than that judge's average compensation for the last three years.

I strongly believe that this Section will provide greater equity and reasonableness in the computation of assessments and in the compensation which our judges receive.

Section 2. Payments to a three judge panel.

This section would increase the daily compensation of a three judge panel of probate judges from \$100 to \$250. The section would bring payments under this provision in line with payments made to judges who hear cases for another judge who has a conflict of interest. The payment would be pro-rated on the basis of \$50 per hour.

Section 3. Technical correction of P.A. 97-87.

This is a technical revision to the Act passed in the last session, which does not alter the substance or intent of that Act at all. It simply clarifies the circumstances pursuant to which such a judge could make the election for additional retirement benefits. The prior Act inadvertently extended the benefits to judges who were re-elected after a court consolidation.

Sections 4 through 17. Changes to Probate Courts' Jurisdiction:

1. Section 4 would give the probate courts jurisdiction to apply the doctrine of cypres or approximation, concurrently with the superior courts of our State. When the testator's original intention has been frustrated by a future turn of events which was not anticipated at the time the will was executed, application of the doctrine would allow the court to reform the instrument in order to carry out the intent of the testator under those unanticipated circumstances. Presently, only the superior court may do so; accordingly, if such a matter arose during the probate process, a separate and time-consuming complaint would have to be filed in the superior court and the entire probate proceeding would be stalled until that litigation was concluded. This Section would give the parties an option of which court to go to.

2. Section 5 assures the parties in a case described in the last paragraph of their right to claim a jury trial in the superior court, unless they have elected to try the matter in the probate court.

3. Sections 6 & 7 extend the same concept of the reformation of probate documents to matters involving the marital and charitable deductions allowed under the Internal Revenue Code. Once again, the petitioner would have a choice as to which court to access in order to

remedy the tax defect. This measure has been strongly supported by members of the Bar, since it would permit them to wind up a probate matter far more quickly and expeditiously than by having to bring a separate action in the superior court.

4. Sections 8-12 concern the emancipation of minors, a matter which may be presently brought only to the superior courts. Probate courts would be given concurrent jurisdiction by these sections, which is most appropriate given the fact that the probate courts presently hear many matters dealing with the custody and placement of children.

5. Section 13 would allow interested parties to petition the local probate court for an accounting by a cemetery association. The petitioner would first have to prove to the court that he or she has a sufficient interest in the matter to request such an accounting. Once heard, the cemetery trust would no longer be subject to the court's continuing jurisdiction.

6. Sections 14-17 would grant exclusive jurisdiction over the civil commitment of drug or alcohol dependent persons to the local probate court. The substantive provisions of the existing law (Sec. 17-684) remain virtually unchanged, but jurisdiction and venue would be granted to the local probate court. As you know, probate courts have always had exclusive jurisdiction over the civil commitment of the mentally ill. They have exercised that authority with fairness, compassion and efficiency. This is a parallel authority with very similar issues, which will also require a great deal of sensitivity and wisdom. Chief Court Administrator, Judge Aaron Ment, has no objection to the shifting of this responsibility to the probate courts. As always, an appeal may be taken to the superior court, which will hear the matter as a trial de novo. The specific venue is determined according to the location of the treatment facility in which the respondent is a patient at the time the application is filed. These sections track the procedural and due process provisions of the original Act, except that the initial hearing before the probate court must be held within 10 business days, as is the case in other civil commitment cases. Our probate judges are up to the challenge presented by this measure, which they fully support.

At the request of the Department of Mental Health and Addiction Services and with our concurrence, I would request that this Committee make two minor changes in the proposed legislation. The time frames for holding the commitment hearing should be reduced from 10 to seven business days. (These references are on lines 638 and 697 of the Bill).

7. Section 18 would allow probate judges to limit the powers and duties of a conservator to tailor them to the needs and abilities of the incapable person, in the best interests of the ward. The courts will have to consider the prior appointment and effectiveness of a power of attorney, health care agent, trustee or similar fiduciary in meeting the needs of the incapable person, as well as other support services which may be available to him. The purpose of this Section is to provide the least restrictive judicial mechanism possible to protect an individual who meets the statutory definition of incapability but who is still able to take part in some of the decisions which affect him or has appointed others to do so. The provision seeks to get away from the all-or-nothing, black-and-white approach of the present statute.

8. Section 19 would exempt probate judges from jury duty, as is presently the case with all the other judges and justices of our State. I have mixed feelings about this provision. On the one hand, I believe that every citizen, regardless of position or rank in society, has a

duty to serve on a jury of his or her peers. However, on a **practical** level, it places a burden on the court system. In addition, it is very problematic whether a probate judge would ever actually be empaneled, since the judge would probably know most of the lawyers presenting the case and would, therefore, be excused. I have been called three times for jury duty, once spending half a day in the jury room during the indoctrination of the entire pool of jurors. I must say I found the presentation extremely interesting and well done. However, as soon as I was randomly selected for the first jury pool, it took the sitting judge about two minutes to realize that I knew virtually everyone in the courtroom and could not possibly serve; so I was excused and sent back to my own court. I leave it up to the sound judgement of this Committee and the General Assembly as to whether the existing exemption should be extended to probate judges. We are more than happy to serve, if called and selected.

9. Sections 20-28 would substantially streamline the probate process in decedent's estates matters. It is the product of two years of hard work and dedication by several committees of the Probate Assembly, its President Judge, Robert K. Killian Jr. and Judges Glenn E. Knierim and Michael E. Heffernan, co-chairs of the lead Committee. I had asked then-President Judge Earl R. Capuano to initiate a study of ways in which our probate procedures could be made more efficient and more user-friendly. The result is what is before you, which I wholeheartedly support.

The simplifications involved are basically two-fold: the first will eliminate the need for court hearings in the vast majority of the cases, thereby eliminating the needless appearance of the family, attorneys and others from what could be a significant distance away. As the court receives each application, instead of automatically scheduling a hearing, it will provide a detailed notice to each interested party, better educating and informing them of their basic rights and letting them know that, if they want a hearing for **any** reason (even if only to see what is going on), all they have to do is notify the court of that request. If they fail to do so by a certain date, the court will take the papers on the matter and decide the case privately. Thereafter, each interested party will be notified of the decision reached by the court. If a party should change his or her mind after the hearing, he or she can always take an appeal or seek to re-open the matter before the probate court. This will result in a substantial time savings to the public and to the Bar. It will also serve as a means of better educating the parties to a probate proceeding as to the meaning of what the court is doing, providing them with the means of getting copies of relevant documents, giving them the names and addresses of attorneys and proposed fiduciaries who are involved, as well as informing them of their rights as well. This is clearly a pro-consumer piece of legislation, designed to take the mystery out of probate and to make our courts even more accessible and open to the public.

The second portion of the measure would substantially simplify the accounting process in a far greater number of cases. Presently, a fiduciary who is also the sole beneficiary may utilize what is called a Statement in lieu of Account as a means of accounting to the court. That Statement shows that those entitled to payment have, in fact, been paid and that the remainder is available to the fiduciary. No formal account is necessary. This proposal would expand the class of those who could use this procedure to **any** fiduciary who is also **any** of the residuary beneficiaries of the estate. However, if distribution were being made to a trust, a more complete (but simplified) account would be required. This provision will save an

enormous amount of time and effort for those families who are probably more familiar with the on-goings of the estate than the judge and who are quite content to allow the fiduciary (who is probably a close relative) to utilize this short-form procedure. It is important to note that **any interested party or the court itself** has the ability to require a more complete accounting, so that the rights of all are preserved. This measure will serve to further reduce the time and effort spent on probating an estate. Your passage of this proposal is respectfully urged.

If more detailed information is needed by the Committee, I would be more than happy to provide it upon request. Thank you for taking the time to review and consider these comments.



STATE OF CONNECTICUT
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

TESTIMONY BY THOMAS A. KIRK, JR., Ph.D.

DEPUTY COMMISSIONER, DMHAS

March 9, 1998

Good afternoon, Senator Williams, Representative Lawlor, and members of the Judiciary Committee. I am Thomas Kirk, the Deputy Commissioner of the Department of Mental Health and Addiction Services. I am here today to address two bills before you which will impact on our agency.

The first of these is HB 5468, An Act Concerning Probate Courts. The Department of Mental Health and Addiction Services strongly supports the transfer of jurisdiction over the commitment of alcohol and drug-dependent persons from the superior court to the probate court. Such a transfer would help to support the notion that addiction is a disease rather than a crime. Also, this change would be consistent with the way civil commitments are handled for mental illness. The probate court offers a setting more conducive to the handling of such a sensitive and private health matter.

While DMHAS fully supports this change of jurisdiction, we are working with the Probate Court to change certain aspects of HB 5486 ^{HB 5468} which would erode protections for patients. Utmost care must be given to protect the individual's rights during the course of the civil commitment process. We are satisfied that we have come to a resolution on these issues and will advise the Committee of the details as soon as the work is completed.

The second bill I wish to comment on is HB 5501, An Act Concerning Zero Tolerance Drug Probation and Parole Program. This bill would establish a drug program within the

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Office of Adult Probation and the Board of Parole for persons who apply for early release and who agree to submit to periodic urinalysis testing for illicit drugs. Under this program, if the person's test results are positive for illicit drugs, or if the person refuses such urinalysis testing, he or she would be immediately incarcerated for two or three days, respectively.

The Drug Probation and Parole Program is a new concept that has been introduced successfully in Baltimore, Maryland, and Washington, DC. Data from these programs show some positive outcomes in terms of deterring drug use and criminal activity.

It would appear that this type of "carrot and stick" incentive program may be useful for reducing criminal activity and drug use. However, it is not likely to be sufficient programming to achieve a full recovery from drug addiction if the applicant is drug dependent or a long term, "hard core" user. Such persons are unlikely to be unable to abstain from the use of drugs or alcohol without treatment and other support mechanisms.

The proposed program, if provided adequate resources and infrastructure for full implementation, may prove to be a helpful tool to use in conjunction with treatment for persons whose substance use is not to the point of dependence and whose use is a corollary rather than a direct contributor to their criminal behavior. It may also serve as a mechanism by which to motivate persons to enter treatment.

If this Committee decides to act favorably on this bill, we would ask that each individual who enters this program be assessed and offered immediate access to treatment which is appropriate for his or her individual needs.

Thank you for the opportunity to speak to you today on these two important bills. I will be happy to answer any questions you may have at this time.

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Judiciary Committee Public Hearing
March 9, 1998

H.B. 5468, *An Act Concerning Probate Courts*
Testimony of Deborah J. Fuller

Thank you for the opportunity to appear before you today as a representative of the Judicial Branch to testify on H.B. 5468, *An Act Concerning Probate Courts*. We have concerns with the portions of the bill relating to the emancipation of minors.

Sections 8 -11 propose to create concurrent jurisdiction for the emancipation of minors in the Superior Court for Juvenile Matters and the Probate Courts. We are concerned that this creation of concurrent jurisdiction would cause confusion. Emancipation petitions often deal with minors who are already involved with the Superior Court for Juvenile Matters. The continuity of case management and services to the youth and family would be compromised by the bifurcation of emancipation proceedings from child protection or delinquency proceedings. In addition, given the size of the caseload (approximately 150 filings annually) and the absence of any controversy or deficiencies regarding the current processing of these cases, it would appear that creating concurrent jurisdiction is unnecessary.

Sections 9 and 10 concern investigation of emancipation cases. Although the statute as currently drafted allows the Superior Court for Juvenile Matters to require a probation officer, the Commissioner of Children and Families and any other person to investigate the allegations in the petition and file a report of that investigation with the court, it has long been Judicial Branch practice that these investigations are conducted by the Court Services Officers assigned to the various juvenile matters court. CSOs have a wide range of skills and knowledge about juvenile

law, child welfare issues and services delivery systems, and have received special training in conducting emancipation studies. They are highly qualified to evaluate these situations and are aware of any other proceedings in Superior Court for Juvenile Matters affecting the petitions. In many cases, the Court Services Officers make child abuse referrals to the Department of Children and Families as a result of information learned during an emancipation investigation.

In summary, it seems logical that jurisdiction over these matters reside in one court, not two. The Superior Court for Juvenile Matters would appear to be the most appropriate venue, as it is already staffed to adjudicate these matters, operates under existing procedures and guidelines, and has the availability of attorneys experienced in providing services in these cases. We are unaware of any problems with these cases, and thus supporting maintaining the status quo.

Thank you.



STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES
60B WESTON STREET, HARTFORD, CONNECTICUT 06120-1551

JUDICIARY COMMITTEE

Testimony of the Office of Protection and Advocacy for Persons with Disabilities

Submitted by
Lawrence Berliner
General Counsel

RE: HB 5468 AN ACT CONCERNING PROBATE COURT

The Office of Protection and Advocacy for Persons with Disabilities supports Section eighteen (18) of H.B. 5468. This section seeks to amend the conservator statute by authorizing a Probate Court to issue a decree for a plenary or limited conservator of the estate and/or person. From a disabled rights perspective, this is a positive development in the evolution of probate statutes. As currently written, our statutes only authorize a plenary conservator of the estate or person. This means that even if an individual requires a substitute decision maker for medical care issues only, the Probate Court has no discretion to limit its decree to medical care determination. Instead, the court was obligated to curtail a respondent's rights in other areas such as residential decisions, the ability to retain counsel, or the ability to care for personal effects, to name a few. Similar results occur with the conservator of the estate statute, a respondent losing all control over all his or her property, even if there is a need for assistance in only one area, such as managing a bank account. The proposed statute will allow a Probate Court to make

decisions with the deftness of a surgeon, rather than utilize the meat cleaver approach authorized in current law. A limited curtailment of a person's rights is far more preferable than an unnecessary whole invasion of those rights.

This agency would suggest a technical revision to Section 45a-660(a)(1) to allow the Probate Court to modify a plenary conservatorship, if the ward or respondent has regained some capacity to make decisions regarding their person or estate. As currently written this statute only permits a continuation or termination of a conservatorship decree. This approach would be consistent with Section 45a-68(a) of the General Statutes, an analogous statute, involving legal guardianships of persons with mental retardation.

I would like to thank the Committee for giving these remarks due consideration.

JOINT
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HEARINGS

JUDICIARY
PART 6
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was.

In the event a guide dog is attacked by someone's pet it can be ruined as a guide dog. This is a two year -- minimum two year investment by a non-profit organization to breed, raise, and train these dogs for people and also we're talking thousands of dollars of money that's been donated by the public for the dog.

So, again I appreciate your time and hope that this bill will pass.

REP. LAWLOR: Thank you. Are there questions from members of the committee? If not, thanks very much.

Next is Linda Dow.

LINDA DOW: Good afternoon, Mr. Chairman and members of the committee. My name is Linda Dow. I'm Chief Counsel to the Probate Courts for the State of Connecticut.

I'll keep my comments brief as we have submitted detailed written testimony on the proposals.

I would first like to testify in favor of HB5745, AN ACT CONCERNING CHILD PROTECTION. As the prior speakers indicated, amendments have been submitted to this committee on this bill. Our office collaborated on those amendments and we fully support them.

This proposal will substantially enhance the rights of children and bring our state into compliance with federal mandates.

There are two sections which are extremely important to the Probate courts. As drafted, Section 5 of HB5745 would contradict the current guardianship statutes. By mutual agreement, Section 5 should be deleted.

The other change in the proposed amendments which affect the Probate courts are the grounds for termination. The proposed changes will ensure the

consistency of application between the Probate and Superior Courts which have concurrent jurisdiction over termination of parental rights and they will bring both courts into compliance with federal law.

I will not duplicate the testimony of the esteemed panel which spoke before me, but simply add that we strongly favor the proposed changes that they have submitted to this committee.

The next proposal I would like to address is HB5730, AN ACT CONCERNING PROBATE MATTERS. This bill was the work of the Probate Committee of the Law Revision Commission. The bill makes many technical changes to Probate statutes which we fully support as they will make the Probate Court system more efficient. And they are technical changes. We have detailed these in our written comments.

We would request that you make note of two changes in the bill. Section 8 is an unintentional duplication of Section 7 and should be deleted. And Section 14 is found in HB5468 which was just given a joint favorable by this committee. So we would ask that Section 14 of this proposal be deleted.

Finally, I would like to comment on raised SB522, AN ACT CONCERNING ADOPTION RIGHTS. As you are aware, the Probate Courts have exclusive jurisdiction over adoptions in the State of Connecticut. The bill before you would open up all adoption records to adult adopted or adoptable persons. These records have been closed to the entire public since 1944 and to adult adopted persons since 1974. The proposal before you is a drastic change in the current law and one which we feel should be studied by a committee of all interested parties. This bill dramatically affects the courts of probate. We would ask that you defer this proposal for one year and that either the proponents of the bill or this committee establish a study committee to provide the opportunity that for all interested parties to be heard and we, of course, would offer to serve on any such committee.