

1 S.1

2 Introduced by Senator Sears

3 Referred to Committee on Judiciary

4 Date: January 7, 2011

5 Subject: Court procedure; judicial restructuring

6 Statement of purpose: This bill proposes to reenact three statutes that were
7 inadvertently repealed by the judicial restructuring act of 2010.

8 An act relating to technical amendments to the judicial restructuring act of
9 2010

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 ~~Sec. 1. 4 V.S.A. § 363 is added to read:~~

12 ~~§ 363. POWERS~~

13 ~~(a) The probate division of the superior court may issue warrants,~~
14 ~~subpoenas, and processes in conformity with the law necessary to compel the~~
15 ~~attendance of witnesses or to produce books, papers, documents, or tangible~~
16 ~~things, or to carry into effect the orders, sentences, or decrees of the probate~~
17 ~~division or the powers granted it by law.~~

18 ~~(b) The probate division of the superior court may appoint not more than~~
19 ~~three masters to report on a particular issue or to do or perform particular acts~~
20 ~~or to receive and report evidence.~~

1 ~~Sec. 2. 12 V.S.A. § 2553 is added to read:~~

2 ~~§ 2553. APPEALS TO CIVIL DIVISION; APPELLATE JURISDICTION~~

3 ~~The civil division of the superior court shall have appellate jurisdiction of~~
4 ~~matters originally within the jurisdiction of the probate division of the superior~~
5 ~~court, except as herein otherwise provided.~~

6 Sec. 3. 12 V.S.A. § 2555 is added to read:

7 ~~§ 2555. APPEAL TO CIVIL DIVISION~~

8 ~~Except as otherwise provided, a person interested in an order, sentence,~~
9 ~~decree or denial issued by the probate division of the superior court, who~~
10 ~~considers himself or herself injured thereby, may appeal therefrom to the civil~~
11 ~~division of the superior court.~~

12 Sec. 4. EFFECTIVE DATE

13 ~~This act shall take effect on February 1, 2011.~~

Sec. 1. 3 V.S.A. § 479(h) is added to read:

(h) For purposes of entitlement to medical benefits in retirement, former county court employees hired by the counties to court positions on or before June 30, 2008 who became state employees on February 1, 2011 pursuant to No. 154 of the Acts of the 2009 Adj. Sess. (2010) shall be deemed to have been first included in membership of the system on or before June 30, 2008.

Sec. 2. 3 V.S.A. § 1011 is amended to read:

§ 1011. DEFINITIONS

For the purposes of this chapter:

** * **

(8) "Employee," means any individual employed and compensated on a permanent or limited status basis by the judiciary department, including permanent part-time employees and any individual whose employment has ceased as a consequence of, or in connection with, any current labor dispute

or because of an unfair labor practice. "Employee" does not include any of the following:

* * *

~~(H) A register of probate. [Repealed.]~~

* * *

Sec. 3. 4 V.S.A. § 363 is added to read:

§ 363. POWERS

(a) A probate judge may issue warrants, subpoenas, and processes in conformity with the law necessary to compel the attendance of witnesses or to produce books, papers, documents, or tangible things, or to carry into effect the orders, sentences, or decrees of the probate division or the powers granted it by law.

(b) A probate judge may appoint not more than three masters to report on a particular issue or to do or perform particular acts or to receive and report evidence.

Sec. 4. 12 V.S.A. § 2553 is added to read:

§ 2553. APPEALS TO CIVIL DIVISION; APPELLATE JURISDICTION

The civil division of the superior court shall have appellate jurisdiction of matters originally within the jurisdiction of the probate division of the superior court, except as herein otherwise provided.

Sec. 5. 12 V.S.A. § 2555 is added to read:

§ 2555. APPEAL TO CIVIL DIVISION

Except as otherwise provided, a person interested in an order, sentence, decree or denial issued by the probate division of the superior court, who considers himself or herself injured thereby, may appeal therefrom to the civil division of the superior court.

Sec. 6. Subsection (c) of Sec. 199 of No. 154 of the Acts of the 2009 Adj. Sess. (2010), in 32 V.S.A. § 1142, is amended to read:

(c) A probate judge whose salary is less than ~~\$45,701.00~~ 50 percent of the salary of the most highly paid probate judge shall be eligible only for the least expensive medical benefit plan option available to state employees or may apply the state share of the premium for which the judge is eligible toward the purchase of another state or private health insurance plan. A probate judge whose salary is less than ~~\$45,701.00~~ 50 percent of the salary of the most highly paid probate judge may participate in other state employee benefit plans.

Sec. 7. REPEAL

4 V.S.A. § 436a (relating to a special circuit court at Waterbury to hear applications for treatment of mentally ill individuals) is repealed.

~~Sec. 8. EFFECTIVE DATE~~

~~This act shall take effect on February 1, 2011, except for Sec. 6 and this section, which shall take effect on passage.~~

~~Sec. 8. EFFECTIVE DATE~~

~~(a) This section and Secs. 6 and 9–12 of this act shall take effect on passage.~~

~~(b) Secs. 1, 5 and 7 shall take effect February 1, 2011.~~

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

Sec. 9. 4 V.S.A. § 691 is amended to read:

§ 691. CLERKS AND ASSISTANTS; APPOINTMENT; COMPENSATION

(a) The superior court clerk, with the approval of the court administrator, may hire and remove staff for the superior court subject to the terms of any applicable collective bargaining agreement. The clerks and staff shall be state employees and shall be entitled to all fringe benefits and compensation accorded classified state employees who are similarly situated, subject to any applicable statutory limits, unless covered by a collective bargaining agreement that sets forth the terms and conditions of employment negotiated pursuant to the provisions of chapter 28 of Title 3.

(b) A staff person for the superior court may also serve as the county clerk if the court administrator approves of such service with the concurrence of the assistant judges. If a superior court staff person serves as county clerk pursuant to this subsection, the court administrator and the assistant judges shall enter into a memorandum of understanding with respect to the duties, work schedule, and compensation of the person serving.

~~(c) The court administrator and the assistant judges shall enter into a memorandum of understanding providing for the acceptance and processing of United States passport applications at each county court. The memorandum may provide for performance of passport acceptance and processing duties by the court clerk, county clerk, a superior court staffperson serving as county clerk pursuant to subsection (b) of this section, or any other court or county employee.~~

(c) With respect to counties where the assistant judges have elected to offer passport processing services, the court administrator and the assistant judges shall enter into a memorandum of understanding providing for the acceptance and processing of United States passport applications. The memorandum may

provide for performance of passport acceptance and processing duties by the court clerk, county clerk, a superior court staff person serving as county clerk pursuant to subsection (b) of this section, or any other court or county employee.

Sec. 10. 24 V.S.A. § 131 is amended to read:

§ 131. POWERS AND DUTIES²

The assistant judges shall have the care and superintendence of county property, may provide for the acceptance and processing of United States passport applications by county clerks pursuant to memorandums of understanding entered into under 4 V.S.A. § 691, may take deeds and leases of real estate to the county, rent or sell and convey unused lands belonging to the county, keep the courthouse, jail, and other county buildings insured, and make needed repairs and improvements in and around the same.

Sec. 11. 24 V.S.A. § 184 is added to read:

§ 184. PROCESSING OF PASSPORT APPLICATIONS

The county clerk shall, if so directed by the assistant judges, accept and process applications for United States passports pursuant to memorandums of understanding entered into under 4 V.S.A. § 691.

Sec. 12. TRANSITIONAL PROVISIONS

The court administrator and the assistant judges in each county shall enter into a memorandum of understanding for each respective county as required by 4 V.S.A. § 691 on or before March 1, 2011.