HOUSE . . . . . No. 4364

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 12, 2024.

The committee on the Judiciary, to whom were referred the petition (accompanied by bill, Senate, No. 1083) of Susan L. Moran, Paul W. Mark, Michael D. Brady, Joanne M. Comerford and others for legislation relative to the efficient management and operation of the registries of probate, and the petition (accompanied by bill, House, No. 1813) of Susannah M. Whipps, Josh S. Cutler and others relative to the operation of the registries of probate, reports recommending that the accompanying bill (House, No. 4364) ought to pass.

For the committee,

MICHAEL S. DAY.

FILED ON: 2/5/2024

HOUSE . . . . . No. 4364

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to the efficient management and operation of the registries of probate.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 2 of chapter 217 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting, in line 14, after the word "including" the following words:- the selection, appointment, and management of.

SECTION 2. Said chapter 217 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:-

Section 23. The register of the respective courts of the probate and family court department may, with the approval of the chief justice of the probate and family court, appoint for a term of 3 years and may, with the approval of the chief justice, remove a first assistant register of probate. Before entering upon the performance of his duties, a first assistant register shall take the oath prescribed by the constitution. The appointments shall be as follows:

Barnstable, 1 first assistant register

Berkshire, 1 first assistant register

Bristol, 1 first assistant register

Essex, 1 first assistant register

Franklin, 1 first assistant register

Hampden, 1 first assistant register

Hampshire, 1 first assistant register

Middlesex, 1 first assistant register

Norfolk, 1 first assistant register

Plymouth, 1 first assistant register

Suffolk, 1 first assistant register

Worcester, 1 first assistant register.

SECTION 3. Said chapter 217 is hereby further amended by striking out section 23A, as so appearing, and inserting in place thereof the following section:-

Section 23A. In addition to the first assistant registers of probate provided for in section 23, the registers of the respective courts of the probate and family court department for the following counties may, with the approval of the chief justice of the probate and family court, appoint for terms of 3 years and may, with the approval of the chief justice, remove assistant registers with the same powers and duties. The appointments shall be as follows:

Barnstable, 2 assistant registers

Berkshire, 1 assistant register

Bristol, 2 assistant registers

Essex, 3 assistant registers

Franklin, 1 assistant register

Hampden, 2 assistant registers

Hampshire, 1 assistant register

Middlesex, 4 assistant registers

Norfolk, 2 assistant registers

Plymouth, 2 assistant registers

Suffolk, 2 assistant registers

Worcester, 2 assistant registers.

SECTION 4. Said chapter 217 is hereby further amended by striking out section 23B, as so appearing, and inserting in place thereof the following section:-

Section 23B. The positions of administrative deputy assistant registers are hereby eliminated. Notwithstanding the elimination of these positions or any other general or special law to the contrary, a person employed as an administrative deputy assistant register of probate pursuant to this section as of the effective date of this act shall continue to be employed as an administrative deputy assistant register of probate and shall continue to serve in that capacity at the pleasure of the register of probate for that county. The position of administrative deputy assistant shall continue to meet the definitions of both confidential and managerial employees as

those terms appear in chapter 150E and any individuals continuing to be employed in that capacity shall perform no official judicial duties.

SECTION 5. Section 23C of said chapter 217, as so appearing, is hereby amended by striking out, in line 15, the number "1" and inserting in place thereof the following number:- 2.

SECTION 6. Said chapter 217 is hereby amended by striking out section 23D, as so appearing, and inserting in place thereof the following section:-

Section 23D. In addition to the judicial case managers of the probate and family court provided for in section 23C, the first justices of the respective courts of the probate and family court department for the following counties may, with the approval of the chief justice of the probate and family court, appoint and may, with the approval of the chief justice, remove assistant judicial case managers with the same powers and duties. The appointments shall be as follows:

Barnstable, 2 assistant judicial case managers

Berkshire, 1 assistant judicial case manager

Bristol, 5 assistant judicial case managers

Essex, 6 assistant judicial case managers

Franklin, 1 assistant judicial case manager

Hampden, 5 assistant judicial case managers

Hampshire, 1 assistant judicial case manager

Middlesex, 8 assistant judicial case managers

Norfolk, 5 assistant judicial case managers

Plymouth, 5 assistant judicial case managers

Suffolk, 5 assistant judicial case managers

Worcester, 6 assistant judicial case managers.

SECTION 7. Section 27A of said chapter 217, as so appearing, is hereby amended by striking out, in line 4, the words “as such assistant”.

SECTION 8. Said chapter 217 is hereby amended by striking out section 28, as so appearing, and inserting in place thereof the following section:-

Section 28. The first justice of the Suffolk county court may, subject to the approval of the chief justice of the probate and family court, appoint a clerk who may administer the oaths required in probate proceedings that are not prescribed by law to be administered by the judge or register and shall perform such clerical and other duties as may be required by the first justice. The clerk may be removed by the first justice, with the approval of the chief justice. The Suffolk county register of probate may, with the approval of the chief justice, designate 6 employees as deputy assistant registers with the same powers as assistant registers and may revoke such designation with the approval of the chief justice. Four of the deputy assistant registers shall receive as additional compensation an amount equal to 10 per cent of the annual salary of the Suffolk county register of probate. Two of the deputy assistant registers shall receive as additional compensation an amount equal to 5 per cent of the annual salary of the Suffolk county register of probate. Notwithstanding the above, any person designated as a deputy assistant

register of probate pursuant to this section as of the effective date of this act shall continue to serve in that capacity, as previously provided by this section prior to its amendment and shall continue to receive 15 per cent of the annual salary of the Suffolk county register of probate until they are no longer so designated, as previously provided by this section prior to its amendment. The positions of associate deputy registers, previously provided for, are hereby eliminated. Notwithstanding the elimination of these positions or any other general or special law to the contrary, a person designated as an associate deputy register of probate pursuant to this section as of the effective date of this act shall continue to serve in that capacity and receive the additional compensation of 7.5 per cent of the annual salary of the Suffolk county register of probate, as previously provided by this section prior to its amendment, until they are no longer so designated.

SECTION 9. Said chapter 217 is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:-

Section 29. The first justice of the Middlesex county court may, with the approval of the chief justice of the probate and family court, appoint a clerk who may administer the oaths required in probate proceedings that are not prescribed by law to be administered by the judge or register and shall perform such clerical and other duties as may be required by the first justice. The clerk may be removed by the first justice with the approval of the chief justice. The Middlesex county register of probate may, with the approval of the chief justice, designate 9 employees as deputy assistant registers with the same powers as assistant registers and with the approval of the chief justice remove a deputy assistant register. Six of the deputy assistant registers shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Middlesex county register of probate. Three of the deputy assistant registers shall

receive as additional compensation an amount equal to 5 per cent of the annual salary of the Middlesex county register of probate. Notwithstanding the above, any person designated as a deputy assistant register of probate pursuant to this section as of the effective date of this act shall continue to be serve in that capacity, as previously provided by this section prior to its amendment and shall continue to receive 15 per cent of the annual salary of the Middlesex county register of probate until they are no longer so designated, as previously provided by this section prior to its amendment.

SECTION 10. Said chapter 217 is hereby further amended by striking out section 29A, as so appearing, and inserting in place thereof the following section:-

Section 29A. The first justice of the Dukes county court may, with the approval of the chief justice of the probate and family court, appoint a clerk who may administer the oaths required in probate proceedings that are not prescribed by law to be administered by the judge or register and shall perform such clerical and other duties as may be required by the first justice, with the approval of the chief justice. The clerk may be removed by the first justice with the approval of the chief justice. The Dukes county register of probate may, with the approval of the chief justice, designate 2 employees as deputy assistant registers with the same powers as assistant registers and with the approval of the chief justice remove a deputy assistant register. One deputy assistant register shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Dukes county register of probate. One deputy assistant register shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Dukes county register of probate. Notwithstanding the above, any person designated as a deputy assistant register of probate pursuant to this section as of the effective date of this act shall continue to be serve in that capacity, as previously provided by this section prior to its

amendment and shall continue to receive 15 per cent of the annual salary of the Dukes county register of probate until they are no longer so designated, as previously provided by this section prior to its amendment.

SECTION 11. Said chapter 217 is hereby further amended by striking out section 29B, as so appearing, and inserting in place thereof the following section:-

Section 29B. The first justice for the Nantucket county court may, with the approval of the chief justice of the probate and family court, appoint a clerk who may administer the oaths required in probate proceedings that are not prescribed by law to be administered by the judge or register, and shall perform such clerical and other duties as may be required by the first justice, with the approval of the chief justice. The clerk may be removed by the first justice with the approval of the chief justice. The Nantucket county register of probate may, with the approval of the chief justice, designate 2 employees as deputy assistant registers with the same powers as assistant registers and with the approval of the chief justice remove a deputy assistant register. One deputy assistant register shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Nantucket county register of probate. One deputy assistant register shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Nantucket county register of probate.

SECTION 12. Said chapter 217 is hereby further amended by striking out section 29C, as so appearing, and inserting in place thereof the following section:-

Section 29C. The register of the Barnstable probate court may, with the approval of the chief justice of the probate and family court, designate 5 employees as deputy assistant registers with the same powers as assistant registers and with the approval of the chief justice remove a

deputy assistant register. Three deputy assistant registers shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Barnstable county register of probate. Two deputy assistant registers shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Barnstable county register of probate.

SECTION 13. Said chapter 217 is hereby further amended by striking out section 29D, as so appearing, and inserting in place thereof the following section:-

Section 29D. The register of the Berkshire probate court may, with the approval of the chief justice of the probate and family court, designate 3 employees as deputy assistant registers with the same powers as assistant register and with the approval of the chief justice remove a deputy assistant register. Two deputy assistant registers shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Berkshire county register of probate. One deputy assistant register shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Berkshire county register of probate.

SECTION 14. Said chapter 217 is hereby further amended by striking out section 29E, as so appearing, and inserting in place thereof the following section:-

Section 29E. The register of the Hampden probate court may, with the approval of the chief justice of the probate and family court, designate 6 employees as deputy assistant registers with the same powers as assistant registers and with the approval of the chief justice remove a deputy assistant register. Four deputy assistant registers shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Hampden county register of probate. Two deputy assistant registers shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Hampden county register of probate. Notwithstanding the above,

any person designated as a deputy assistant register of probate pursuant to this section as of the effective date of this act shall continue to serve in that capacity and shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Hampden county register of probate.

SECTION 15. Said chapter 217 is hereby further amended by striking out section 29F, as so appearing, and inserting in place thereof the following section:-

Section 29F. The register of the Worcester probate and family court may, with the approval of the chief justice of the probate and family court, designate 6 employees as deputy assistant registers with the same powers as assistant registers and with the approval of the chief justice remove a deputy assistant register. Four deputy assistant registers shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Worcester county register of probate. Two deputy assistant registers shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Worcester county register of probate. Notwithstanding the above, any person designated as a deputy assistant register of probate pursuant to this section as of the effective date of this act shall continue to serve in that capacity, as previously provided by this section prior to its amendment and shall continue to receive 15 per cent of the annual salary of the Worcester county register of probate.

SECTION 16. Said chapter 217 is hereby further amended by striking out section 29G, as so appearing, and inserting in place thereof the following section:-

Section 29G. The register of the Bristol probate and family court may, with the approval of the chief justice of the probate and family court, designate 6 employees as deputy assistant registers with the same powers as assistant registers and with the approval of the chief justice

remove a deputy assistant register. Four deputy assistant registers shall receive in addition to their salaries as employees, additional compensation in an amount equal to 10 per cent of the annual salary of the Bristol county register of probate. Two deputy assistant registers shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Bristol county register of probate.

SECTION 17. Said chapter 217 is hereby further amended by striking out section 29H, as so appearing, and inserting in place thereof the following section:-

Section 29H. The register of the Hampshire probate and family court may, with the approval of the chief justice of the probate and family court, designate 3 employees as deputy assistant registers with the same powers as assistant registers and with the approval of the chief justice remove a deputy assistant register. Two deputy assistant registers shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Hampshire county register of probate. One deputy assistant register shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Hampshire county register of probate. Notwithstanding the above, any person designated as a deputy assistant register of probate pursuant to this section as of the effective date of this act shall continue to serve in that capacity, as previously provided by this section prior to its amendment and shall continue to receive 15 per cent of the annual salary of the Hampshire county register of probate.

SECTION 18. Said chapter 217 is hereby further amended by striking out section 29I, as so appearing, and inserting in place thereof the following section:-

Section 29I. The register of the Plymouth probate and family court may, with the approval of the chief justice of the probate and family court, designate 6 employees as deputy

assistant registers with the same powers as assistant registers and with the approval of the chief justice remove a deputy assistant register. Four deputy assistant registers shall receive in addition to their salaries as employees, additional compensation in an amount equal to 10 per cent of the annual salary of the Plymouth county register of probate. Two deputy assistant registers shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Plymouth county register of probate.

SECTION 19. Said chapter 217 is hereby further amended by striking out section 29J, as so appearing, and inserting in place thereof the following section:-

Section 29J. The register of the Essex probate and family court may, with the approval of the chief justice of the probate and family court, designate 6 employees as deputy assistant registers with the same powers as an assistant register and with the approval of the chief justice remove a deputy assistant register. Four deputy assistant registers shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Essex county register of probate. Two deputy assistant register shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Essex county register of probate.

SECTION 20. Said chapter 217 is hereby further amended by striking out section 29K, as so appearing, and inserting in place thereof the following section:-

Section 29K. The register of the Franklin probate and family court may, with the approval of the chief justice of the probate and family court, designate 3 employees as deputy assistant registers with the same powers as an assistant register and with the approval of the chief justice remove a deputy assistant register. Two deputy assistant registers shall receive in addition to his salary as an employee, additional compensation in an amount equal to 10 per cent of the

annual salary of the Franklin county register of probate. One deputy assistant register shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Franklin county register of probate.

SECTION 21. Said chapter 217 is hereby further amended by striking out section 29L, as so appearing, and inserting in place thereof the following section:-

Section 29L. The register of the Norfolk probate and family court may, with the approval of the chief justice of the probate and family court, designate 6 employees as deputy assistant registers with the same powers as an assistant register and with the approval of the chief justice remove a deputy assistant register. Four deputy assistant registers shall receive additional compensation in an amount equal to 10 per cent of the annual salary of the Norfolk county register of probate. Two deputy assistant register shall receive additional compensation in an amount equal to 5 per cent of the annual salary of the Norfolk county register of probate. Notwithstanding the above, any person designated as a deputy assistant register of probate pursuant to this section as of the effective date of this act shall continue to serve in that capacity, as previously provided by this section prior to its amendment and shall continue to receive 15 per cent of the annual salary of the Norfolk county register of probate until they are no longer so designated, as previously provided by this section prior to its amendment.