

2012 -- S 2254

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LC00885
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROBATE COURTS

Introduced By: Senator Walter S. Felag

Date Introduced: January 26, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-9-5 of the General Laws in Chapter 8-9 entitled "Probate Courts"
2 is hereby amended to read as follows:
3 **8-9-5. Disqualification or inability of probate judge. --** Unless otherwise provided,
4 whenever the judge of probate in any city or town is a party or is interested in any case arising in
5 his or her town, or is absent or unable to perform his or her duties, the town council of the town
6 shall perform those duties in the same manner as if no judge of probate had been elected;
7 provided, however, that whenever the judge of probate of the town of Warren is a party or is
8 interested in any proceeding about to be heard in his or her court, or is absent or unable to
9 perform his or her duties, or there is a vacancy in the office, his or her duties shall be temporarily
10 performed by the ~~town clerk~~ town solicitor of the town; and the fact of the interest, absence,
11 inability, or vacancy shall be rendered in the records of the court; provided, however, that
12 whenever the judge of probate of the city of Newport or the town of Cumberland or Smithfield is
13 a party or is interested in any proceeding about to be heard in his or her court, or is absent or
14 unable to perform his or her duties, or there is a vacancy in the office, his or her duties shall be
15 temporarily performed by the municipal court judge, if available, if not then the city solicitor of
16 the city of Newport or by the town solicitor of the towns of Cumberland or Smithfield,
17 respectively; and the fact of the interest, absence, inability, or vacancy shall be recorded in the
18 records of the court; provided, however, that whenever the judge of probate of the towns of
19 Hopkinton or West Greenwich is a party or is interested in any proceeding about to be heard in

1 his or her court, or is absent or unable to perform his or her duties, or there is a vacancy in the
2 office, his or her duties shall be temporarily performed by one or more deputy probate judges to
3 be elected by the town council of the towns of Hopkinton and West Greenwich, in the same
4 manner as prescribed for the election of the probate judge in section 8-9-4, the deputy probate
5 judge(s) to have the same powers and duties as the probate judge and be entitled to the fees of the
6 court as the towns may allow; provided, further, however, that no judge of probate in any city or
7 town shall be permitted to practice or enter his or her appearance or act in any capacity as an
8 attorney in any case before the probate court in his or her city or town.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COURTS AND CIVIL PROCEDURE - PROBATE COURTS

- 1 This act would permit the town solicitor in the town of Warren to temporarily serve as the
- 2 town's probate court judge in proceedings where the designated probate judge is unable to serve.
- 3 This act would take effect upon passage.

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