



General Assembly

January Session, 2011

**Raised Bill No. 1058**

LCO No. 3763

\*03763\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE APPLICABILITY OF PROBATE COURT ORDERS TO STATE AGENCIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) Each state agency  
2 shall recognize and enforce any order, denial or decree of a court of  
3 probate that is applicable to the operations of the state agency. Any  
4 state agency aggrieved by an order, denial or decree of a court of  
5 probate that is applicable to the operations of the state agency may  
6 appeal therefrom to the Superior Court in accordance with section 45a-  
7 186 of the general statutes, as amended by this act.

8 (b) For the purposes of this section, "state agency" means a  
9 department, board, council, commission, institution or other executive  
10 branch agency.

11 Sec. 2. Section 45a-186 of the general statutes is repealed and the  
12 following is substituted in lieu thereof (*Effective October 1, 2011*):

13 (a) Any person aggrieved by any order, denial or decree of a court  
14 of probate in any matter, unless otherwise specially provided by law,

15 may, not later than forty-five days after the mailing of an order, denial  
16 or decree for a matter heard under any provision of section 45a-593,  
17 45a-594, 45a-595 or 45a-597, sections 45a-644 to 45a-677, inclusive, or  
18 sections 45a-690 to 45a-705, inclusive, and not later than thirty days  
19 after mailing of an order, denial or decree for any other matter in a  
20 court of probate, appeal therefrom to the Superior Court. Such an  
21 appeal shall be commenced by filing a complaint in the superior court  
22 in the judicial district in which such court of probate is located, or, if  
23 the court of probate is located in a probate district that is in more than  
24 one judicial district, by filing a complaint in a superior court that is  
25 located in a judicial district in which any portion of the probate district  
26 is located, except that (1) an appeal under subsection (b) of section 12-  
27 359, subsection (b) of section 12-367, [or] subsection (b) of section 12-  
28 395 or section 1 of this act shall be filed in the judicial district of  
29 Hartford, and (2) an appeal in a matter concerning removal of a parent  
30 as guardian, termination of parental rights or adoption shall be filed in  
31 any superior court for juvenile matters having jurisdiction over matters  
32 arising in any town within such probate district. The complaint shall  
33 state the reasons for the appeal. A copy of the order, denial or decree  
34 appealed from shall be attached to the complaint. Appeals from any  
35 decision rendered in any case after a recording is made of the  
36 proceedings under section 17a-498, 17a-685, 45a-650, 51-72 or 51-73  
37 shall be on the record and shall not be a trial de novo.

38 (b) Each person who files an appeal pursuant to this section shall  
39 mail a copy of the complaint to the court of probate that rendered the  
40 order, denial or decree appealed from, and serve a copy of the  
41 complaint on each interested party. The failure of any person to make  
42 such service shall not deprive the Superior Court of jurisdiction over  
43 the appeal. Notwithstanding the provisions of section 52-50, service of  
44 the copy of the complaint shall be by state marshal, constable or an  
45 indifferent person. Service shall be in hand or by leaving a copy at the  
46 place of residence of the interested party being served or at the address  
47 for the interested party on file with said court of probate, except that  
48 service on a respondent or conserved person in an appeal from an

49 action under part IV of chapter 802h shall be in hand by a state  
50 marshal, constable or an indifferent person.

51 (c) Not later than fifteen days after a person files an appeal under  
52 this section, the person who filed the appeal shall file or cause to be  
53 filed with the clerk of the Superior Court a document containing (1) the  
54 name, address and signature of the person making service, and (2) a  
55 statement of the date and manner in which a copy of the complaint  
56 was served on the court of probate and each interested party.

57 (d) If service has not been made on an interested party, the Superior  
58 Court, on motion, shall make such orders of notice of the appeal as are  
59 reasonably calculated to notify any necessary party not yet served.

60 (e) A hearing in an appeal from probate proceedings under section  
61 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685,  
62 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699,  
63 45a-703 or 45a-717 shall commence, unless a stay has been issued  
64 pursuant to subsection (f) of this section, not later than ninety days  
65 after the appeal has been filed.

66 (f) The filing of an appeal under this section shall not, of itself, stay  
67 enforcement of the order, denial or decree from which the appeal is  
68 taken. A motion for a stay may be made to the Court of Probate or the  
69 Superior Court. The filing of a motion with the Court of Probate shall  
70 not preclude action by the Superior Court.

71 (g) Nothing in this section shall prevent any person aggrieved by  
72 any order, denial or decree of a court of probate in any matter, unless  
73 otherwise specially provided by law, from filing a petition for a writ of  
74 habeas corpus, a petition for termination of involuntary representation  
75 or a petition for any other available remedy.

76 (h) (1) Except for matters described in subdivision (3) of this  
77 subsection, in any appeal filed under this section, the appeal may be  
78 referred by the Superior Court to a special assignment probate judge

79 appointed in accordance with section 45a-79b, who is assigned by the  
80 Probate Court Administrator for the purposes of such appeal, except  
81 that such appeal shall be heard by the Superior Court if any party files  
82 a demand for such hearing in writing with the Superior Court not later  
83 than twenty days after service of the appeal.

84 (2) An appeal referred to a special assignment probate judge  
85 pursuant to this subsection shall proceed in accordance with the rules  
86 for references set forth in the rules of the judges of the Superior Court.

87 (3) The following matters shall not be referred to a special  
88 assignment probate judge pursuant to this subsection: Appeals under  
89 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to  
90 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,  
91 inclusive, and section 1 of this act, children's matters as defined in  
92 subsection (a) of section 45a-8a, sections 45a-644 to 45a-663, inclusive,  
93 45a-668 to 45a-684, inclusive, and 45a-690 to 45a-700, inclusive, and  
94 any matter in a court of probate heard on the record in accordance  
95 with sections 51-72 and 51-73.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	45a-186

**Statement of Purpose:**

To require each state agency to follow any order, denial or decree of a court of probate that is applicable to the operations of the state agency, and clarify that a state agency shall have standing to appeal any such order, denial or decree to the Superior Court with respect to its applicability to the state agency.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*