



# Senate

General Assembly

**File No. 711**

January Session, 2013

Senate Bill No. 986

*Senate, May 6, 2013*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***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, 2013*) (a) Each state agency  
2 shall recognize, apply and enforce any order, denial or decree of a  
3 Probate Court that is applicable to any determination made by the  
4 state agency in a contested case. Any state agency aggrieved by an  
5 order, denial or decree of a Probate Court that is applicable to such a  
6 determination may appeal therefrom to the Superior Court in  
7 accordance with section 45a-186 of the general statutes, as amended by  
8 this act.

9 (b) For the purposes of this section, "state agency" means an agency,  
10 as defined in section 4-166 of the general statutes, and "contested case"  
11 means a contested case, as defined in section 4-166 of the general  
12 statutes.

13 Sec. 2. Section 45a-186 of the general statutes is repealed and the

14 following is substituted in lieu thereof (*Effective October 1, 2013*):

15 (a) Except as provided in sections 45a-187 and 45a-188, any person  
16 aggrieved by any order, denial or decree of a [court of probate] Probate  
17 Court in any matter, unless otherwise specially provided by law, may,  
18 not later than forty-five days after the mailing of an order, denial or  
19 decree for a matter heard under any provision of section 45a-593, 45a-  
20 594, 45a-595 or 45a-597, sections 45a-644 to 45a-677, inclusive, or  
21 sections 45a-690 to 45a-705, inclusive, and not later than thirty days  
22 after mailing of an order, denial or decree for any other matter in a  
23 [court of probate] Probate Court, appeal therefrom to the Superior  
24 Court. Such an appeal shall be commenced by filing a complaint in the  
25 superior court in the judicial district in which such [court of probate]  
26 Probate Court is located, or, if the [court of probate] Probate Court is  
27 located in a probate district that is in more than one judicial district, by  
28 filing a complaint in a superior court that is located in a judicial district  
29 in which any portion of the probate district is located, except that (1)  
30 an appeal under subsection (b) of section 12-359, subsection (b) of  
31 section 12-367, [or] subsection (b) of section 12-395 or section 1 of this  
32 act shall be filed in the judicial district of Hartford, and (2) an appeal in  
33 a matter concerning removal of a parent as guardian, termination of  
34 parental rights or adoption shall be filed in any superior court for  
35 juvenile matters having jurisdiction over matters arising in any town  
36 within such probate district. The complaint shall state the reasons for  
37 the appeal. A copy of the order, denial or decree appealed from shall  
38 be attached to the complaint. Appeals from any decision rendered in  
39 any case after a recording is made of the proceedings under section  
40 17a-498, 17a-685, 45a-650, 51-72 or 51-73 shall be on the record and  
41 shall not be a trial de novo.

42 (b) Each person who files an appeal pursuant to this section shall  
43 mail a copy of the complaint to the [court of probate] Probate Court  
44 that rendered the order, denial or decree appealed from, and serve a  
45 copy of the complaint on each interested party. The failure of any  
46 person to make such service shall not deprive the Superior Court of  
47 jurisdiction over the appeal. Notwithstanding the provisions of section

48 52-50, service of the copy of the complaint shall be by state marshal,  
49 constable or an indifferent person. Service shall be in hand or by  
50 leaving a copy at the place of residence of the interested party being  
51 served or at the address for the interested party on file with said [court  
52 of probate] Probate Court, except that service on a respondent or  
53 conserved person in an appeal from an action under part IV of chapter  
54 802h shall be in hand by a state marshal, constable or an indifferent  
55 person.

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

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

66 (e) A hearing in an appeal from probate proceedings under section  
67 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685,  
68 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699,  
69 45a-703, [or] 45a-717 or section 1 of this act shall commence, unless a  
70 stay has been issued pursuant to subsection (f) of this section, not later  
71 than ninety days after the appeal has been filed.

72 (f) The filing of an appeal under this section shall not, of itself, stay  
73 enforcement of the order, denial or decree from which the appeal is  
74 taken. A motion for a stay may be made to the [Court of] Probate  
75 Court or the Superior Court. The filing of a motion with the [Court of]  
76 Probate Court shall not preclude action by the Superior Court.

77 (g) Nothing in this section shall prevent any person aggrieved by  
78 any order, denial or decree of a [court of probate] Probate Court in any  
79 matter, unless otherwise specially provided by law, from filing a

80 petition for a writ of habeas corpus, a petition for termination of  
81 involuntary representation or a petition for any other available  
82 remedy.

83 (h) (1) Except for matters described in subdivision (3) of this  
84 subsection, in any appeal filed under this section, the appeal may be  
85 referred by the Superior Court to a special assignment probate judge  
86 appointed in accordance with section 45a-79b, who is assigned by the  
87 Probate Court Administrator for the purposes of such appeal, except  
88 that such appeal shall be heard by the Superior Court if any party files  
89 a demand for such hearing in writing with the Superior Court not later  
90 than twenty days after service of the appeal.

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

94 (3) The following matters shall not be referred to a special  
95 assignment probate judge pursuant to this subsection: Appeals under  
96 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to  
97 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,  
98 inclusive, and section 1 of this act, children's matters as defined in  
99 subsection (a) of section 45a-8a, sections 45a-644 to 45a-663, inclusive,  
100 45a-668 to 45a-684, inclusive, and 45a-690 to 45a-700, inclusive, and  
101 any matter in a [court of probate] Probate Court heard on the record in  
102 accordance with sections 51-72 and 51-73.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	New section
Sec. 2	October 1, 2013	45a-186

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
Children & Families, Dept.; Developmental Services, Dept.; Social Services, Dept.	GF - Potential Cost	See Below	See Below

***Municipal Impact:*** None

#### ***Explanation***

The bill requires state agencies to recognize, apply, and enforce any probate court orders, denials or decrees. To the extent that state agencies are not currently complying with such orders, this bill may result in a cost to the agencies to comply.

#### ***The Out Years***

The potential fiscal impact identified above would continue into the future subject to the extent to which state agencies are not in compliance.

**OLR Bill Analysis****SB 986*****AN ACT CONCERNING THE APPLICABILITY OF PROBATE COURT ORDERS TO STATE AGENCIES.*****SUMMARY:**

This bill requires state agencies to recognize, apply, and enforce any probate court orders, denials, or decrees that apply to agency determinations in contested cases. It allows state agencies aggrieved by such a probate court decision to appeal to Hartford Superior Court.

The bill is not limited to cases where a state agency is a party to probate court proceedings. Thus, it is unclear how agencies would be aggrieved by the court's decision or have standing to file an appeal.

EFFECTIVE DATE: October 1, 2013

**STATE AGENCY APPEALS OF PROBATE DECISIONS**

Under the bill, state agency appeals of probate decisions must generally follow the same procedures as apply to most other probate appeals. But unlike probate appeals for most other matters, state agency appeals under the bill must be brought to Hartford Superior Court, rather than the superior court where the probate district is located.

Also, as is currently the case for certain probate appeals, the bill:

1. requires hearings on such an appeal to begin within 90 days after the appeal is filed, unless the probate court or Superior Court has granted a stay and
2. prohibits the Superior Court from referring the appeal to a special assignment probate judge.

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**DEFINITIONS**

Under the bill, a “state agency” refers to an agency as defined in the Uniform Administrative Procedure Act (UAPA). The bill also uses the UAPA’s definition of contested case.

Under the UAPA, an agency is a state board, commission, department, or officer authorized by law to make regulations or to determine contested cases. The term does not include the House, Senate, or any legislative committee; the courts; the Council on Probate Judicial Conduct; the governor, lieutenant governor, or attorney general; town or regional boards of education; or automobile dispute settlement panels.

A contested case is a proceeding in which a party’s legal rights, duties, or privileges are required by state statute or regulation to be determined by an agency after an opportunity for a hearing or in which a hearing is held. The term specifically includes rate-making, price fixing, and licensing. It does not include proceedings on a petition for a declaratory ruling; hearings on proposed agency regulations; or hearings conducted by the Department of Correction or the Board of Pardons and Paroles (CGS § 4-166).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/19/2013)