



General Assembly

February Session, 2014

Raised Bill No. 360

LCO No. 1827



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, 2014*) (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 2014 supplement to the general statutes
14 is repealed and the following is substituted in lieu thereof (*Effective*

15 *October 1, 2014*):

16 (a) Except as provided in sections 45a-187 and 45a-188, any person
17 aggrieved by any order, denial or decree of a Probate Court in any
18 matter, unless otherwise specially provided by law, may, not later than
19 forty-five days after the mailing of an order, denial or decree for a
20 matter heard under any provision of section 45a-593, 45a-594, 45a-595
21 or 45a-597, sections 45a-644 to 45a-677, inclusive, or sections 45a-690 to
22 45a-705, inclusive, and not later than thirty days after mailing of an
23 order, denial or decree for any other matter in a Probate Court, appeal
24 therefrom to the Superior Court. Such an appeal shall be commenced
25 by filing a complaint in the superior court in the judicial district in
26 which such Probate Court is located, or, if the Probate Court is located
27 in a probate district that is in more than one judicial district, by filing a
28 complaint in a superior court that is located in a judicial district in
29 which any portion of the probate district is located, except that (1) an
30 appeal under subsection (b) of section 12-359, subsection (b) of section
31 12-367, [or] subsection (b) of section 12-395 or section 1 of this act shall
32 be filed in the judicial district of Hartford, and (2) an appeal in a matter
33 concerning removal of a parent as guardian, termination of parental
34 rights or adoption shall be filed in any superior court for juvenile
35 matters having jurisdiction over matters arising in any town within
36 such probate district. The complaint shall state the reasons for the
37 appeal. A copy of the order, denial or decree appealed from shall be
38 attached to the complaint. Appeals from any decision rendered in any
39 case after a recording is made of the proceedings under section 17a-
40 498, 17a-543, 17a-543a or 17a-685, sections 45a-644 to 45a-667v,
41 inclusive, or section 51-72 or 51-73 shall be on the record and shall not
42 be a trial de novo.

43 (b) Each person who files an appeal pursuant to this section shall
44 serve a copy of the complaint on each interested party. The failure of
45 any person to make such service shall not deprive the Superior Court
46 of jurisdiction over the appeal. Notwithstanding the provisions of
47 section 52-50, service of the copy of the complaint shall be by state

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

54 (c) In addition to the notice given under subsection (b) of this
55 section, each person who files an appeal pursuant to this section shall
56 mail a copy of the complaint to the Probate Court that rendered the
57 order, denial or decree appealed from. The Probate Court and the
58 judge of probate that rendered the order, denial or decree appealed
59 from shall not be made parties to the appeal and shall not be named in
60 the complaint as parties.

61 (d) Not later than fifteen days after a person files an appeal under
62 this section, the person who filed the appeal shall file or cause to be
63 filed with the clerk of the Superior Court a document containing (1) the
64 name, address and signature of the person making service, and (2) a
65 statement of the date and manner in which a copy of the complaint
66 was served on each interested party and mailed to the Probate Court
67 that rendered the order, denial or decree appealed from.

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

71 (f) A hearing in an appeal from probate proceedings under section
72 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685,
73 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699,
74 45a-703, [or] 45a-717 or section 1 of this act shall commence, unless a
75 stay has been issued pursuant to subsection (g) of this section, not later
76 than ninety days after the appeal has been filed.

77 (g) The filing of an appeal under this section shall not, of itself, stay
78 enforcement of the order, denial or decree from which the appeal is

79 taken. A motion for a stay may be made to the Probate Court or the
80 Superior Court. The filing of a motion with the Probate Court shall not
81 preclude action by the Superior Court.

82 (h) Nothing in this section shall prevent any person aggrieved by
83 any order, denial or decree of a Probate Court in any matter, unless
84 otherwise specially provided by law, from filing a petition for a writ of
85 habeas corpus, a petition for termination of involuntary representation
86 or a petition for any other available remedy.

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

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

98 (3) The following matters shall not be referred to a special
99 assignment probate judge pursuant to this subsection: Appeals under
100 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to
101 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,
102 inclusive, and section 1 of this act, children's matters as defined in
103 subsection (a) of section 45a-8a, sections 45a-644 to 45a-663, inclusive,
104 45a-668 to 45a-684, inclusive, and 45a-690 to 45a-700, inclusive, and
105 any matter in a Probate Court heard on the record in accordance with
106 sections 51-72 and 51-73.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>October 1, 2014</i>	45a-186

Statement of Purpose:

To require each state agency to follow any order, denial or decree of a Probate Court that is applicable to a determination made by the state agency, and clarify that a state agency has standing to appeal any such order, denial or decree to the Superior Court with respect to its applicability to the state agency's determination.

[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.]