



General Assembly

February Session, 2018

Amendment

LCO No. 4061



Offered by:
SEN. KELLY, 21st Dist.

To: Subst. Senate Bill No. 247 File No. 514 Cal. No. 318

"AN ACT CONCERNING PROBATE COURT OPERATIONS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2018*) (a) Each state agency
4 shall recognize, apply and enforce any order, denial or decree of a
5 Probate Court that is applicable to any determination made by the
6 state agency in a contested case. Any state agency aggrieved by an
7 order, denial or decree of a Probate Court that is applicable to such a
8 determination may appeal therefrom to the Superior Court in
9 accordance with section 45a-186 of the general statutes, as amended by
10 this act.

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

15 Sec. 502. Section 45a-186 of the general statutes is repealed and the

16 following is substituted in lieu thereof (*Effective October 1, 2018*):

17 (a) Except as provided in sections 45a-187 and 45a-188, any person
18 aggrieved by any order, denial or decree of a Probate Court in any
19 matter, unless otherwise specially provided by law, may, not later than
20 forty-five days after the mailing of an order, denial or decree for a
21 matter heard under any provision of section 45a-593, 45a-594, 45a-595
22 or 45a-597, sections 45a-644 to 45a-677, inclusive, or sections 45a-690 to
23 45a-705, inclusive, and not later than thirty days after mailing of an
24 order, denial or decree for any other matter in a Probate Court, appeal
25 therefrom to the Superior Court. Such an appeal shall be commenced
26 by filing a complaint in the superior court in the judicial district in
27 which such Probate Court is located, or, if the Probate Court is located
28 in a probate district that is in more than one judicial district, by filing a
29 complaint in a superior court that is located in a judicial district in
30 which any portion of the probate district is located, except that (1) an
31 appeal under subsection (b) of section 12-359, subsection (b) of section
32 12-367, [or] subsection (b) of section 12-395 or section 501 of this act
33 shall be filed in the judicial district of Hartford, and (2) an appeal in a
34 matter concerning removal of a parent as guardian, termination of
35 parental rights or adoption shall be filed in any superior court for
36 juvenile matters having jurisdiction over matters arising in any town
37 within such probate district. The complaint shall state the reasons for
38 the appeal. A copy of the order, denial or decree appealed from shall
39 be attached to the complaint. Appeals from any decision rendered in
40 any case after a recording is made of the proceedings under section
41 17a-498, 17a-543, 17a-543a or 17a-685, sections 45a-644 to 45a-667v,
42 inclusive, or section 51-72 or 51-73 shall be on the record and shall not
43 be a trial de novo.

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

50 by 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 the
52 Probate Court, except that service on a respondent or conserved
53 person in an appeal from an action under part IV of chapter 802h shall
54 be in hand by a state marshal, constable or an indifferent person.

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

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

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

72 (f) A hearing in an appeal from probate proceedings under section
73 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a, 17a-685,
74 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682, 45a-699,
75 45a-703, [or] 45a-717 or section 501 of this act shall commence, unless a
76 stay has been issued pursuant to subsection (g) of this section, not later
77 than ninety days after the appeal has been filed.

78 (g) The filing of an appeal under this section shall not, of itself, stay
79 enforcement of the order, denial or decree from which the appeal is
80 taken. A motion for a stay may be made to the Probate Court or the
81 Superior Court. The filing of a motion with the Probate Court shall not

82 preclude action by the Superior Court.

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

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

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

99 (3) The following matters shall not be referred to a special
 100 assignment probate judge pursuant to this subsection: Appeals under
 101 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to
 102 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,
 103 inclusive, and section 501 of this act, children's matters as defined in
 104 subsection (a) of section 45a-8a, sections 45a-644 to 45a-663, inclusive,
 105 45a-668 to 45a-683, inclusive, and 45a-690 to 45a-700, inclusive, and
 106 any matter in a Probate Court heard on the record in accordance with
 107 sections 51-72 and 51-73."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2018	New section
Sec. 502	October 1, 2018	45a-186