



General Assembly

January Session, 2019

Raised Bill No. 938

LCO No. 4678



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING STATE AGENCY COMPLIANCE WITH
PROBATE COURT ORDERS.***

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

1 Section 1. (NEW) (*Effective October 1, 2019*) (a) Each state agency that
2 is a party to a Probate Court proceeding shall recognize, apply and
3 enforce any order, denial or decree of a Probate Court that is
4 applicable to any determination made by the state agency in a
5 contested case. Any party aggrieved by an order, denial or decree of a
6 Probate Court that is applicable to such a determination may appeal
7 therefrom to the Superior Court in accordance with section 45a-186 of
8 the general statutes, as amended by 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 has the same meaning as provided 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 Section 45a-186 of the general statutes is repealed and the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, 2019*):

15 (a) Except as provided in sections 45a-187 and 45a-188, any person
16 aggrieved by any order, denial or decree of a Probate Court in any
17 matter, unless otherwise specially provided by law, may, not later than
18 forty-five days after the mailing of an order, denial or decree for a
19 matter heard under any provision of section 45a-593, 45a-594, 45a-595
20 or 45a-597, sections 45a-644 to 45a-677, inclusive, or sections 45a-690 to
21 [45a-705] 45a-705a, inclusive, and not later than thirty days after
22 mailing of an order, denial or decree for any other matter in a Probate
23 Court, appeal therefrom to the Superior Court. Such an appeal shall be
24 commenced by filing a complaint in the superior court in the judicial
25 district in which such Probate Court is located, or, if the Probate Court
26 is located in a probate district that is in more than one judicial district,
27 by filing a complaint in a superior court that is located in a judicial
28 district in which any portion of the probate district is located, except
29 that (1) an appeal under subsection (b) of section 12-359, subsection (b)
30 of section 12-367, [or] subsection (b) of section 12-395 or section 1 of
31 this act shall be filed in the judicial district of Hartford, and (2) an
32 appeal in a matter concerning removal of a parent as guardian,
33 termination of parental rights or adoption shall be filed in any superior
34 court for juvenile matters having jurisdiction over matters arising in
35 any town within such probate district. The complaint shall state the
36 reasons for the appeal. A copy of the order, denial or decree appealed
37 from shall be attached to the complaint. Appeals from any decision
38 rendered in any case after a recording is made of the proceedings
39 under section 17a-498, 17a-543, 17a-543a or 17a-685, sections 45a-644 to
40 45a-667v, inclusive, or section 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 serve a copy of the complaint on each interested party. The failure of
44 any person to make such service shall not deprive the Superior Court
45 of jurisdiction over the appeal. Notwithstanding the provisions of
46 section 52-50, service of the copy of the complaint shall be by state
47 marshal, constable or an indifferent person. Service shall be in hand or
48 by leaving a copy at the place of residence of the interested party being

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

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

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

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

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

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

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

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

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

97 (3) The following matters shall not be referred to a special
 98 assignment probate judge pursuant to this subsection: Appeals (A)
 99 under sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-
 100 495 to 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,
 101 inclusive, and section 1 of this act, (B) of children's matters, as defined
 102 in subsection (a) of section 45a-8a, (C) under sections 45a-644 to 45a-
 103 663, inclusive, [45a-668] 45a-669 to 45a-683, inclusive, and 45a-690 to
 104 45a-700, inclusive, and (D) of any matter in a Probate Court heard on
 105 the record in accordance 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, 2019</i>	New section
Sec. 2	<i>October 1, 2019</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 such order's 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.]