



Substitute Senate Bill No. 410

Public Act No. 14-209

**AN ACT CONCERNING ADMINISTRATIVE HEARINGS
CONDUCTED BY THE DEPARTMENT OF SOCIAL SERVICES.**

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

Section 1. Section 17b-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) An aggrieved person or any other person authorized by law to request [a fair hearing on] an administrative hearing concerning a decision of the [Commissioner] Department of Social Services [or the conservator of any such person on his behalf may make application for] may request such hearing [in writing over his signature to the commissioner and shall state in such application in simple language the reasons why he claims to be aggrieved. Such application shall be mailed to the commissioner within sixty days after the rendition of such decision. The commissioner shall thereupon hold a fair hearing within thirty days from receipt thereof and shall, at least ten days prior to the date of such hearing, mail a notice, giving the time and place thereof, to such aggrieved person, or if the application concerns a denial of or failure to provide emergency housing, the commissioner shall hold a fair hearing within four business days from receipt thereof, and shall make all reasonable efforts to provide notice of the time and place of the fair hearing to such aggrieved person at least one business

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day prior to said hearing. A reasonable period of continuance may be granted for good cause. The aggrieved person shall appear personally at the hearing, unless his physical or mental condition precludes appearing in person, and may be represented by an attorney or other authorized representative. A stenographic or mechanical record shall be made of each hearing, but need not be transcribed except (1) in the event of an appeal from the decision of the hearing officer or (2) if a copy is requested by the aggrieved person, in either of which cases it shall be furnished by the Commissioner of Social Services without charge. The Commissioner of Social Services and any person authorized by him to conduct any hearing under the provisions of this section shall have power to administer oaths and take testimony under oath relative to the matter of the hearing and may subpoena witnesses and require the production of records, papers and documents pertinent to such hearing. No witness under subpoena authorized to be issued by the provisions of this section shall be excused from testifying or from producing records, papers or documents on the ground that such testimony or the production of such records or other documentary evidence would tend to incriminate him, but such evidence or the records or papers so produced shall not be used in any criminal proceeding against him. If any person disobeys such process or, having appeared in obedience thereto, refuses to answer any pertinent question put to him by the commissioner or his authorized agent or to produce any records and papers pursuant thereto, the commissioner or his agent may apply to the superior court for the judicial district of Hartford or for the judicial district wherein the person resides, or to any judge of said court if the same is not in session, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer such question or to produce such records and papers and, upon his refusal to do so, shall commit such person to a community correctional center until he testifies, but not for a longer period than sixty days. Notwithstanding the serving of the

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term of such commitment by any person, the commissioner or his agent may proceed with such inquiry and examination as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the commissioner or under his authority and witnesses attending hearings conducted by him hereunder shall receive like fees and compensation as officers and witnesses in the courts of this state to be paid on vouchers of the commissioner on order of the Comptroller.] by mail, telephone or electronic means determined acceptable to the department. For purposes of this section, "person authorized by law to request an administrative hearing" includes (1) any person with legal authority to act on behalf of the aggrieved person, including a conservator of estate, a legal guardian, a person with power of attorney, if permitted under the terms of the designation of power of attorney, or, for a deceased person, an executor or administrator of estate; and (2) an authorized representative who meets the requirements set forth in state and federal law.

(b) The request for an administrative hearing shall include the reasons why the person claims to be aggrieved and shall be made to the Department of Social Services. No hearing shall be held by the department unless the department receives the request not later than sixty-five days after the date of a decision issued by the department, unless otherwise prescribed by federal law. The department shall hold an administrative hearing not later than forty-five days after the date of receipt of the request for a hearing and shall, at least ten days prior to the date of such hearing, provide notice, giving the time and place thereof, to the aggrieved person and, if applicable, the person who requested the hearing on such person's behalf, or, if the request concerns a denial of or failure to provide a special need benefit for emergency housing pursuant to section 17b-808, the department shall hold a hearing not later than four business days from the date of receipt of the request for a hearing, and shall make all reasonable

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efforts to provide notice of the time and place of the hearing to the aggrieved person and, if applicable, the person who requested the hearing on such person's behalf, at least one business day prior to such hearing. A reasonable period of continuance of a hearing scheduled pursuant to this section may be granted for good cause, provided not more than three continuances shall be granted.

(c) The aggrieved person, the person's legal representative or authorized representative shall appear at the administrative hearing, except that, if the aggrieved person is represented by legal counsel who is present at the hearing, and the hearing officer determines that testimony of the aggrieved person or the legal representative or authorized representative is not required in order to properly adjudicate the hearing, no such appearance shall be required. At the hearing officer's discretion, testimony by the aggrieved person, such person's legal representative or authorized representative or by other witness by telephone may be accepted in lieu of personal appearance.

(d) Notwithstanding the provisions of section 4-181, if the Department of Social Services is conducting a hearing in a contested case and it also has an interest adverse to any party in the proceeding, the hearing officer may not communicate with any other employee of the agency, including its counsel, directly or indirectly, in connection with any issue of fact or law involved in that hearing, without advance notice and opportunity for all parties to participate on the record.

(e) A stenographic or mechanical recording shall be made of each administrative hearing, but need not be transcribed, except (1) in the event of an appeal from the decision of the hearing officer, or (2) if a copy is requested by the aggrieved person, in which case it shall be furnished by the Department of Social Services without charge.

(f) The Commissioner of Social Services and any person authorized by the commissioner to conduct any administrative hearing under the

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provisions of this section shall have the power to administer oaths and take testimony under oath relative to the matter of the hearing and may subpoena witnesses and require the production of records, papers and documents pertinent to such hearing. No witness under subpoena authorized to be issued by the provisions of this section shall be excused from testifying or from producing records, papers or documents on the ground that such testimony or the production of such records or other documentary evidence would tend to incriminate such person, but such evidence or the records or papers so produced shall not be used in any criminal proceeding against such person. If any person disobeys such process or, having appeared in obedience thereto, refuses to answer any pertinent question put to such person by the commissioner or the commissioner's authorized agent or to produce any records and papers pursuant thereto, the commissioner or the commissioner's agent may apply to the superior court for the judicial district of Hartford or for the judicial district wherein the person resides, or to any judge of said court if the same is not in session, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer such question or to produce such records and papers and, upon his or her refusal to do so, shall commit such person to a community correctional center until such person testifies, but not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the commissioner or the commissioner's agent may proceed with such inquiry and examination as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the commissioner or under the commissioner's authority and witnesses attending hearings conducted by the commissioner or the commissioner's agent shall receive like fees and compensation as officers and witnesses in the courts of this state to be paid on vouchers of the commissioner on order of the Comptroller.

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Sec. 2. Section 17b-61 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2014*):

(a) Not later than sixty days after [such] the date on which the record closes in an administrative hearing, or three business days after the date on which the record closes if the hearing concerns a denial of or failure to provide a special need benefit for emergency housing [, the commissioner or his] pursuant to section 17b-808, the Commissioner of Social Services or the commissioner's designated hearing officer shall [render] issue a final decision based upon all the evidence introduced before him or her and [applying] all pertinent provisions of law, regulations and departmental policy. [, and such] The final decision shall be issued not later than one hundred five days after the date on which the hearing request was made, pursuant to section 17b-60, as amended by this act, and shall supersede the decision made without a hearing. [, provided final definitive administrative action shall be taken by the commissioner or his designee within ninety days after the request of such hearing pursuant to section 17b-60. Notice] The commissioner or the commissioner's designee shall mail a copy of such final decision [shall be given] to the aggrieved person [by mailing him a copy thereof within] and, if applicable, the person who requested the hearing on such person's behalf not later than one business day [of its rendition] after the date it is issued. Such decision [after hearing] shall be final except as provided in subsections (b) and (c) of this section.

(b) The [applicant for such hearing, if] aggrieved [,] person may appeal therefrom in accordance with section 4-183. Appeals from decisions of [said commissioner] the Department of Social Services shall be privileged cases to be heard by the court as soon after the return day as shall be practicable.

(c) The commissioner may, for good cause shown by an aggrieved person, extend the time for filing an appeal to Superior Court beyond

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the time limitations of section 4-183, as set forth below:

(1) Any aggrieved person who is authorized to appeal a decision of the [commissioner] department, pursuant to subsection (b) of this section, but who fails to serve or file a timely appeal to the Superior Court pursuant to section 4-183, may, as provided in this subsection, petition that the commissioner, for good cause shown, extend the time for filing any such appeal. Such a petition [must] shall be filed with the commissioner in writing and contain a complete and detailed explanation of the reasons that precluded the petitioner from serving or filing an appeal within the statutory time period. Such petition [must] shall also be accompanied by all available documentary evidence that supports or corroborates the reasons advanced for the extension request. In no event shall a petition for extension be considered or approved if filed later than ninety days after the date of rendition of the final decision. The decision as to whether to grant an extension shall be made consistent with the provisions of subdivision (2) of this subsection and shall be final and not subject to judicial review.

(2) In determining whether to grant a good cause extension, as provided for in this subsection, the commissioner, or [his] the commissioner's authorized designee, shall, without the necessity of further hearing, review and, as necessary, verify the reasons advanced by the petition in justification of the extension request. A determination that good cause prevented the filing of a timely appeal shall be issued in writing and shall enable the petitioner to serve and file an appeal within the time provisions of section 4-183, from the date of the decision granting an extension. The circumstances that precluded the petitioner from filing a timely appeal, and which may be deemed good cause for purposes of granting an extension petition, include, but are not limited to: (A) Serious illness or incapacity of the petitioner which has been documented as materially affecting the

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conduct of personal affairs; (B) a death or serious illness in the petitioner's immediate family that has been documented as precluding the petitioner from perfecting a timely appeal; (C) incorrect or misleading information given to the petitioner by the agency, relating to the appeal time period, and shown to have been materially relied on by the petitioner as the basis for failure to file a timely appeal; (D) evidence that the petitioner did not receive notice of the agency decision; and (E) other unforeseen and unavoidable circumstances of an exceptional nature which prevented the filing of a timely appeal.

Vetoed June 12, 2014