



General Assembly

Substitute Bill No. 410

February Session, 2014



**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:

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 Section 17b-60 of the general statutes is repealed and the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

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

20 granted for good cause. The aggrieved person shall appear personally
21 at the hearing, unless his physical or mental condition precludes
22 appearing in person, and may be represented by an attorney or other
23 authorized representative. A stenographic or mechanical record shall
24 be made of each hearing, but need not be transcribed except (1) in the
25 event of an appeal from the decision of the hearing officer or (2) if a
26 copy is requested by the aggrieved person, in either of which cases it
27 shall be furnished by the Commissioner of Social Services without
28 charge. The Commissioner of Social Services and any person
29 authorized by him to conduct any hearing under the provisions of this
30 section shall have power to administer oaths and take testimony under
31 oath relative to the matter of the hearing and may subpoena witnesses
32 and require the production of records, papers and documents
33 pertinent to such hearing. No witness under subpoena authorized to
34 be issued by the provisions of this section shall be excused from
35 testifying or from producing records, papers or documents on the
36 ground that such testimony or the production of such records or other
37 documentary evidence would tend to incriminate him, but such
38 evidence or the records or papers so produced shall not be used in any
39 criminal proceeding against him. If any person disobeys such process
40 or, having appeared in obedience thereto, refuses to answer any
41 pertinent question put to him by the commissioner or his authorized
42 agent or to produce any records and papers pursuant thereto, the
43 commissioner or his agent may apply to the superior court for the
44 judicial district of Hartford or for the judicial district wherein the
45 person resides, or to any judge of said court if the same is not in
46 session, setting forth such disobedience to process or refusal to answer,
47 and said court or such judge shall cite such person to appear before
48 said court or such judge to answer such question or to produce such
49 records and papers and, upon his refusal to do so, shall commit such
50 person to a community correctional center until he testifies, but not for
51 a longer period than sixty days. Notwithstanding the serving of the
52 term of such commitment by any person, the commissioner or his
53 agent may proceed with such inquiry and examination as if the
54 witness had not previously been called upon to testify. Officers who

55 serve subpoenas issued by the commissioner or under his authority
56 and witnesses attending hearings conducted by him hereunder shall
57 receive like fees and compensation as officers and witnesses in the
58 courts of this state to be paid on vouchers of the commissioner on
59 order of the Comptroller.] by mail, telephone or electronic means
60 determined acceptable to the department. For purposes of this section,
61 "person authorized by law to request an administrative hearing"
62 includes (1) any person with legal authority to act on behalf of the
63 aggrieved person, including a conservator of estate, a legal guardian, a
64 person with power of attorney, if permitted under the terms of the
65 designation of power of attorney, or, for a deceased person, an
66 executor or administrator of estate; and (2) an authorized
67 representative who meets the requirements set forth in state and
68 federal law.

69 (b) There shall be established, within the Department of Social
70 Services, an Office of Administrative Appeals, independent from legal
71 counsel for the Department of Social Services and any other division of
72 the department, which shall conduct all administrative appeals from
73 decisions made by the Commissioner of Social Services or such
74 commissioner's designee in accordance with chapter 54. The
75 administrator of this office shall report directly to the Commissioner of
76 Social Services and shall only be removed from office by the
77 commissioner for cause.

78 (c) The request for an administrative hearing shall include the
79 reasons why the person claims to be aggrieved and shall be made to
80 the Department of Social Services. No hearing shall be held by the
81 department unless the department receives the request not later than
82 sixty-five days after the date of a decision issued by the department,
83 unless otherwise prescribed by federal law. The department shall hold
84 an administrative hearing not later than forty-five days after the date
85 of receipt of the request for a hearing and shall, at least ten days prior
86 to the date of such hearing, provide notice, giving the time and place
87 thereof, to the aggrieved person and, if applicable, the person who

88 requested the hearing on such person's behalf, or, if the request
89 concerns a denial of or failure to provide a special need benefit for
90 emergency housing pursuant to section 17b-808, the department shall
91 hold a hearing not later than four business days from the date of
92 receipt of the request for a hearing, and shall make all reasonable
93 efforts to provide notice of the time and place of the hearing to the
94 aggrieved person and, if applicable, the person who requested the
95 hearing on such person's behalf, at least one business day prior to such
96 hearing. A reasonable period of continuance of a hearing scheduled
97 pursuant to this section may be granted for good cause, provided not
98 more than three continuances shall be granted.

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

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

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

121 (g) The Commissioner of Social Services and any person authorized
122 by the commissioner to conduct any administrative hearing under the
123 provisions of this section shall have the power to administer oaths and
124 take testimony under oath relative to the matter of the hearing and
125 may subpoena witnesses and require the production of records, papers
126 and documents pertinent to such hearing. No witness under subpoena
127 authorized to be issued by the provisions of this section shall be
128 excused from testifying or from producing records, papers or
129 documents on the ground that such testimony or the production of
130 such records or other documentary evidence would tend to
131 incriminate such person, but such evidence or the records or papers so
132 produced shall not be used in any criminal proceeding against such
133 person. If any person disobeys such process or, having appeared in
134 obedience thereto, refuses to answer any pertinent question put to
135 such person by the commissioner or the commissioner's authorized
136 agent or to produce any records and papers pursuant thereto, the
137 commissioner or the commissioner's agent may apply to the superior
138 court for the judicial district of Hartford or for the judicial district
139 wherein the person resides, or to any judge of said court if the same is
140 not in session, setting forth such disobedience to process or refusal to
141 answer, and said court or such judge shall cite such person to appear
142 before said court or such judge to answer such question or to produce
143 such records and papers and, upon his or her refusal to do so, shall
144 commit such person to a community correctional center until such
145 person testifies, but not for a longer period than sixty days.
146 Notwithstanding the serving of the term of such commitment by any
147 person, the commissioner or the commissioner's agent may proceed
148 with such inquiry and examination as if the witness had not previously
149 been called upon to testify. Officers who serve subpoenas issued by the
150 commissioner or under the commissioner's authority and witnesses
151 attending hearings conducted by the commissioner or the
152 commissioner's agent shall receive like fees and compensation as
153 officers and witnesses in the courts of this state to be paid on vouchers
154 of the commissioner on order of the Comptroller.

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

157 (a) Not later than sixty days after [such] the date on which the
158 record closes in an administrative hearing, or three business days after
159 the date on which the record closes if the hearing concerns a denial of
160 or failure to provide a special need benefit for emergency housing [,
161 the commissioner or his] pursuant to section 17b-808, the
162 Commissioner of Social Services or the commissioner's designated
163 hearing officer shall [render] issue a final decision based upon all the
164 evidence introduced before him or her and [applying] all pertinent
165 provisions of law, regulations and departmental policy. [, and such]
166 The final decision shall be issued not later than ninety days after the
167 date on which the hearing request was made, pursuant to section 17b-
168 60, as amended by this act, and shall supersede the decision made
169 without a hearing. [, provided final definitive administrative action
170 shall be taken by the commissioner or his designee within ninety days
171 after the request of such hearing pursuant to section 17b-60. Notice]
172 The commissioner or the commissioner's designee shall mail a copy of
173 such final decision [shall be given] to the aggrieved person [by mailing
174 him a copy thereof within] and, if applicable, the person who
175 requested the hearing on such person's behalf not later than one
176 business day [of its rendition] after the date it is issued. Such decision
177 [after hearing] shall be final except as provided in subsections (b) and
178 (c) of this section.

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

184 (c) The commissioner may, for good cause shown by an aggrieved
185 person, extend the time for filing an appeal to Superior Court beyond
186 the time limitations of section 4-183, as set forth below:

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

204 (2) In determining whether to grant a good cause extension, as
205 provided for in this subsection, the commissioner, or [his] the
206 commissioner's authorized designee, shall, without the necessity of
207 further hearing, review and, as necessary, verify the reasons advanced
208 by the petition in justification of the extension request. A
209 determination that good cause prevented the filing of a timely appeal
210 shall be issued in writing and shall enable the petitioner to serve and
211 file an appeal within the time provisions of section 4-183, from the date
212 of the decision granting an extension. The circumstances that
213 precluded the petitioner from filing a timely appeal, and which may be
214 deemed good cause for purposes of granting an extension petition,
215 include, but are not limited to: (A) Serious illness or incapacity of the
216 petitioner which has been documented as materially affecting the
217 conduct of personal affairs; (B) a death or serious illness in the
218 petitioner's immediate family that has been documented as precluding
219 the petitioner from perfecting a timely appeal; (C) incorrect or
220 misleading information given to the petitioner by the agency, relating

221 to the appeal time period, and shown to have been materially relied on
222 by the petitioner as the basis for failure to file a timely appeal; (D)
223 evidence that the petitioner did not receive notice of the agency
224 decision; and (E) other unforeseen and unavoidable circumstances of
225 an exceptional nature which prevented the filing of a timely appeal.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	17b-60
Sec. 2	<i>October 1, 2014</i>	17b-61

HS *Joint Favorable Subst.*

APP *Joint Favorable*