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## **OLR Bill Analysis**

**SB 164 (File 436, as amended by Senate "A")\***

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

#### **SUMMARY**

This bill generally requires each state agency that is a party to a probate court proceeding to recognize and apply any probate court order, denial, or decree issued on or after October 1, 2022. This applies (1) to the extent allowed by federal law and (2) as long as the probate court has the statutory jurisdiction to issue the order, denial, or decree. Under the bill, a “state agency” refers to an agency as defined in the Uniform Administrative Procedure Act (UAPA) (see BACKGROUND).

Unlike most probate appeals, the bill requires a party appealing this type of probate court decision to file the appeal in Hartford Superior Court, rather than the Superior Court in the judicial district where the probate court is located. Also, as is currently the case for certain probate appeals, the bill (1) requires hearings on the appeal to begin within 90 days after the appeal is filed unless the probate court or Superior Court has granted a stay and (2) prohibits the Superior Court from referring the appeal to a special assignment probate judge.

The bill also requires the Department of Social Services (DSS) to compile annual data on the denial of Medicaid eligibility in any matter in which a Connecticut probate court issued an order or decree about assets or income that, according to DSS, affected someone’s Medicaid eligibility. Under the bill, starting by January 1, 2023, DSS must annually report on specified related matters to the Judiciary and Human Services committees.

Lastly, the bill generally extends, from 30 to 45 days, the time to appeal to Superior Court from a probate court panel’s order, denial, or decree involving a writ of habeas corpus petition challenging an

involuntary conservatorship or guardianship.

\*Senate Amendment "A" (1) adds the conditions that state agencies must recognize probate court decisions to the extent allowed by federal law and only if the court has statutory jurisdiction to issue the decision, (2) specifies that the bill's provisions apply to probate court decisions issued on or after October 1, 2022, (3) adds the provisions on DSS compiling and reporting annual data, and (4) makes minor changes.

EFFECTIVE DATE: October 1, 2022, except the DSS data compilation and reporting provisions take effect upon passage.

### **§ 501 — DSS ANNUAL REPORTING ON MEDICAID ELIGIBILITY AND PROBATE COURT CASES**

The bill requires DSS, starting by January 1, 2023, to annually report on the following to the Judiciary and Human Services committees:

1. the total number of probate court cases in which DSS is a party that include issues relating to assets or income that, according to DSS, affected someone's Medicaid eligibility;
2. each occurrence of DSS denying a Medicaid application in which a probate court order or decree related to assets or income and, according to DSS, affected the applicant's Medicaid eligibility;
3. for these occurrences, whether the person appealed DSS's denial and if so, the outcome or status of that appeal; and
4. any probate court proceeding in which DSS did not comply with a court order or decree relating to assets or income that, according to DSS, affected an applicant's Medicaid eligibility, with a written explanation for this noncompliance and indication of whether DSS appealed the court decision.

### **BACKGROUND**

#### ***UAPA Definition of Agency***

Under the UAPA, an agency is a state board, commission, department, or officer authorized by law to make regulations or to

determine contested cases. The term does not include the House, Senate, or any legislative committee; courts; the Council on Probate Judicial Conduct; the governor, lieutenant governor, or attorney general; town or regional boards of education; or automobile dispute settlement panels (CGS § 4-166).

***DSS and Medicaid Determinations***

Under federal law, each state’s Medicaid plan must designate a single state agency to administer or supervise the plan’s administration (42 U.S.C. § 1396a(a)(5)). By law, DSS administers the state’s Medicaid program and is the sole state agency to determine eligibility for Medicaid assistance (CGS § 17b-261b).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 39    Nay 0    (03/29/2022)