



State of Connecticut
Department of Developmental Services

DDS

Ned Lamont
Governor

Jordan A. Scheff
Commissioner

Peter Mason
Deputy Commissioner

**DEPARTMENT OF DEVELOPMENTAL SERVICES TESTIMONY
BEFORE THE JUDICIARY COMMITTEE**

March 6, 2019

Senators Winfield and Kissel, Representatives Stafstrom and Rebimbas and members of the Judiciary Committee. I am Jordan A. Scheff, Commissioner of the Department of Developmental Services. Thank you for the opportunity to submit testimony with the department's concerns on [S.B. No. 938](#) **AN ACT CONCERNING STATE AGENCY COMPLIANCE WITH PROBATE COURT ORDERS.**

Our department's concerns with [S.B. No. 938](#) center on provisions in section 1 that would enable the Probate Courts to require any state agency to follow a Probate Court's order or decree applicable to state agencies even though the Courts of Probate are intended to be courts of limited jurisdiction. We are concerned that this new provision would be an improper extension of the Probate Court's existing authority. For instance, with an order from the court to fund an individual for services, or provide services to an individual, our agency's only recourse would be a Superior Court appeal. An appeal to the Superior Court should not be the only recourse for agencies in such situations. In addition, an order finding a person to have intellectual disability for purposes of the appointment of a guardian, could usurp the "contested case" UAPA rights for department eligibility determinations.

The Probate Courts already have the authority to enforce orders by convening a contempt "show cause" hearing if it is alleged that an agency has not complied with an order. The agency would have the opportunity to address the possible exercise of authority beyond what is conferred by statute, and if the Probate Court still maintained its order, hold the agency in contempt, which could then be appealed to Superior Court. In *Bellonio v. Richardson, 2 Conn. Rpter 789, 1990 WL 274581 (1990)*, the Superior Court ruled that the alleged failure of a state agency (DMR) to comply with an order within the limited jurisdiction of the Probate Court should be left to the Probate Courts' contempt authority for enforcement.

Depending on the Probate Court's orders, and the department's ability to comply, this bill also could result in an increased cost to the department.

Thank you for the opportunity to testify to DDS's concerns with [S.B. No. 938](#) **AN ACT CONCERNING STATE AGENCY COMPLIANCE WITH PROBATE COURT ORDERS.** Please contact Krista Ostaszewski, Director of Legislative Affairs at (860) 418-6066, if you have any questions.