



House of Representatives

General Assembly

File No. 387

February Session, 2002

Substitute House Bill No. 5740

House of Representatives, April 9, 2002

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING STATE MARSHALS.

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

1 Section 1. Subsections (a) to (c), inclusive, of section 6-38b of the
2 general statutes, as amended by section 8 of public act 01-9 of the June
3 special session, are repealed and the following is substituted in lieu
4 thereof (*Effective October 1, 2002*):

5 (a) There is established a State Marshal Commission which shall
6 consist of [~~eight~~] ten members appointed as follows: (1) The Chief
7 Justice shall appoint one member who shall be a judge of the Superior
8 Court; (2) the speaker of the House of Representatives, the president
9 pro tempore of the Senate, the majority and minority leaders of the
10 House of Representatives and the majority and minority leaders of the
11 Senate shall each appoint one member; (3) the State Marshals Advisory
12 Board established pursuant to section 6-38c shall appoint two
13 members, each of whom shall be a state marshal; and [(3)] (4) the
14 Governor shall appoint one member who shall serve as chairperson.

15 No member of the commission other than a member appointed
16 pursuant to subdivision (3) of this subsection shall be a state marshal.
17 [, except that two state marshals appointed by the State Marshals
18 Advisory Board in accordance with section 6-38c shall serve as ex
19 officio, nonvoting members of the commission.]

20 (b) The chairperson shall serve for a three-year term and all
21 appointments of members to replace those whose terms expire shall be
22 for terms of three years.

23 (c) No more than [four] five of the members, other than the
24 chairperson, may be members of the same political party. Of the
25 [seven] nine nonjudicial members, other than the chairperson, at least
26 [three] four shall not be members of the bar of any state.

27 Sec. 2. Section 6-38d of the general statutes is repealed and the
28 following is substituted in lieu thereof (*Effective October 1, 2002*):

29 No state marshal shall knowingly bill for, or receive fees for, work
30 that such state marshal did not actually perform, except that a state
31 marshal may bill for and receive reimbursement of moneys paid by
32 such state marshal for work performed by another person for or on
33 behalf of the person from whom such reimbursement is sought.

34 Sec. 3. Section 6-38e of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective October 1, 2002*):

36 The State Marshal Commission shall [periodically review and audit]
37 conduct random audits of the records and accounts of [the] not more
38 than ten state marshals in any calendar year. The commission may
39 conduct additional audits of the records and accounts of any state
40 marshal upon receipt of a written complaint pertaining to such state
41 marshal that is signed by the person filing such complaint. Upon the
42 death or disability of a state marshal, the commission shall appoint a
43 qualified individual to oversee and audit the records and accounts of
44 such state marshal and render an accounting to the commission. All
45 information obtained by the commission from any audit conducted

46 pursuant to this section shall be confidential and shall not be subject to
47 disclosure under the Freedom of Information Act, as defined in section
48 1-200, as amended.

49 Sec. 4. Subsection (d) of section 11 of public act 01-9 of the June
50 special session is repealed and the following is substituted in lieu
51 thereof (*Effective July 1, 2002*):

52 (d) The first two hundred fifty thousand dollars collected each fiscal
53 year, pursuant to subsection (b) of this section, shall be credited to the
54 state marshal account and be available for expenditure by the State
55 Marshal Commission for the operating expenses of the commission.
56 From July 1, 2001, until July 1, 2006, the Secretary of the Office of
57 Policy and Management shall review and approve or disapprove the
58 budget of the commission. For the fiscal year ending June 30, 2003, and
59 each fiscal year thereafter, not more than twenty-five per cent of the
60 moneys in the state marshal account may be available for expenditure
61 by the State Marshals Advisory Board for the operating expenses of the
62 board.

63 Sec. 5. Section 49-34 of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective October 1, 2002*):

65 A mechanic's lien is not valid [.] unless the person performing the
66 services or furnishing the materials [.] (1) within ninety days after he
67 has ceased to do so, lodges with the town clerk of the town in which
68 the building, lot or plot of land is situated a certificate in writing,
69 which shall be recorded by the town clerk with deeds of land, (A)
70 describing the premises, the amount claimed as a lien thereon, the
71 name or names of the person against whom the lien is being filed and
72 the date of the commencement of the performance of services or
73 furnishing of materials, (B) stating that the amount claimed is justly
74 due, as nearly as the same can be ascertained, and (C) subscribed and
75 sworn to by the claimant, and (2) [within the same time, or prior to the
76 lodging of the certificate but] not later than thirty days after lodging
77 the certificate, serves a true and attested copy of the certificate upon
78 the owner of the building, lot or plot of land in the same manner as is

79 provided for the service of the notice in section 49-35, as amended by
80 this act.

81 Sec. 6. Subsection (a) of section 49-35 of the general statutes, as
82 amended by section 46 of public act 01-195, is repealed and the
83 following is substituted in lieu thereof (*Effective October 1, 2002*):

84 (a) No person other than the original contractor for the construction,
85 raising, removal or repairing of the building, or the development of
86 any lot, or the site development or subdivision of any plot of land or a
87 subcontractor whose contract with the original contractor is in writing
88 and has been assented to in writing by the other party to the original
89 contract, is entitled to claim any such mechanic's lien, unless, after
90 commencing, and not later than ninety days after ceasing, to furnish
91 materials or render services for such construction, raising, removal or
92 repairing, such person gives written notice to the owner of the
93 building, lot or plot of land and to the original contractor that he or she
94 has furnished or commenced to furnish materials, or rendered or
95 commenced to render services, and intends to claim a lien therefor on
96 the building, lot or plot of land; provided an original contractor shall
97 not be entitled to such notice, unless, not later than fifteen days after
98 commencing the construction, raising, removal or repairing of the
99 building, or the development of any lot, or the site development or
100 subdivision of any plot of land, such original contractor lodges with
101 the town clerk of the town in which the building, lot or plot of land is
102 situated an affidavit in writing, which shall be recorded by the town
103 clerk with deeds of land, (1) stating the name under which such
104 original contractor conducts business, (2) stating the original
105 contractor's business address, and (3) describing the building, lot or
106 plot of land. The right of any person to claim a lien under this section
107 shall not be affected by the failure of such affidavit to conform to the
108 requirements of this section. The notice shall be served upon the owner
109 or original contractor, if such owner or original contractor resides in
110 the same town in which the building is being erected, raised, removed
111 or repaired or the lot is being improved, or the plot of land is being
112 improved or subdivided, by any indifferent person, state marshal or

113 other proper officer, by leaving with such owner or original contractor
114 or at such owner's or the original contractor's usual place of abode a
115 true and attested copy thereof. If the owner or original contractor does
116 not reside in such town, but has a known agent therein, the notice may
117 be so served upon the agent, otherwise it may be served by any
118 indifferent person, state marshal or other proper officer, by mailing a
119 true and attested copy of the notice by registered or certified mail to
120 the owner or original contractor at the place where such owner or the
121 original contractor resides. If such copy is returned unclaimed, notice
122 to such owner or original contractor shall be given by publication in
123 accordance with the provisions of section 1-2. When there are two or
124 more owners, or two or more original contractors, the notice shall be so
125 served on each owner and on each original contractor. The notice, with
126 the return of the person who served it endorsed thereon, shall be
127 returned to the original maker of the notice [within said period of
128 ninety days] not later than thirty days after the filing of the certificate
129 pursuant to section 49-34, as amended by this act.

130 Sec. 7. Subsection (b) of section 52-57 of the general statutes is
131 repealed and the following is substituted in lieu thereof (*Effective*
132 *October 1, 2002*):

133 (b) Process in civil actions against the following-described classes of
134 defendants shall be served as follows: (1) Against a town, upon its
135 clerk, assistant clerk, manager or one of its selectmen; (2) against a city,
136 upon its clerk or assistant clerk or upon its mayor or manager; (3)
137 against a borough, upon its manager, clerk or assistant clerk or upon
138 the warden or one of its burgesses; (4) against a school district, upon
139 its clerk or one of its committee; [and] (5) against other municipal or
140 quasi-municipal corporations, upon its clerk or upon its chief
141 presiding officer or managing agent; and (6) against an employee of a
142 town, city or borough in a cause of action arising from the employee's
143 duties or employment, upon (A) the clerk of the town, city or borough,
144 provided two copies of such process shall be served upon the clerk and
145 the clerk shall retain one copy and forward the second copy to the
146 employee, or (B) the employee pursuant to subsection (a) of this

147 section.

148 Sec. 8. Section 52-143 of the general statutes is amended by adding
149 subsection (f) as follows (*Effective October 1, 2002*):

150 (NEW) (f) Any subpoena summoning a physician as a witness may
151 be served upon the office manager or person in charge at the office or
152 principal place of business of such physician who shall act as the agent
153 of the physician named in the subpoena. Service upon the agent shall
154 be deemed to be service upon the physician.

155 Sec. 9. Subsection (a) of section 52-261 of the general statutes, as
156 amended by section 69 of public act 01-9 of the June special session, is
157 repealed and the following is substituted in lieu thereof (*Effective*
158 *October 1, 2002*):

159 (a) Except as provided in subsection (b) of this section and section
160 52-261a, each officer or person who serves process, summons or
161 attachments shall receive a fee of not more than thirty dollars for each
162 process served and an additional fee of [ten] thirty dollars for the
163 second and each subsequent defendant upon whom the process is
164 served, except that such officer or person shall receive a single
165 additional fee of thirty dollars for any service of such process on
166 subsequent defendants at the same address. Each such officer or
167 person shall also receive the fee set by the Department of
168 Administrative Services for state employees for each mile of travel, to
169 be computed from the place where such officer or person received the
170 process to the place of service, and thence in the case of civil process to
171 the place of return. If more than one process is served on one person at
172 one time by any such officer or person, the total cost of travel for the
173 service shall be the same as for the service of one process only. Each
174 officer or person who serves process shall also receive the moneys
175 actually paid for town clerk's fees on the service of process. Any officer
176 or person required to summon jurors by personal service of a warrant
177 to attend court shall receive for the first ten miles of travel while so
178 engaged, such mileage to be computed from the place where such
179 officer or person receives the process to the place of service, twenty-

180 five cents for each mile, and for each additional mile, ten cents. For
181 summoning any juror to attend court otherwise than by personal
182 service of the warrant, such officer or person shall receive only the sum
183 of fifty cents and actual disbursements necessarily expended by such
184 officer or person in making service thereof as directed.
185 Notwithstanding the provisions of this section, for summoning grand
186 jurors, such officer or person shall receive only such officer's or
187 person's actual expenses and such reasonable sum for services as are
188 taxed by the court. The following fees shall be allowed and paid: (1)
189 For taking bail or bail bond, one dollar; (2) for copies of writs and
190 complaints, exclusive of endorsements, one dollar per page, not to
191 exceed a total amount of nine hundred dollars in any particular matter;
192 (3) for endorsements, forty cents per page or fraction thereof; (4) for
193 service of a warrant for the seizure of intoxicating liquors, or for
194 posting and leaving notices after the seizure, or for the destruction or
195 delivery of any such liquors under order of court, twenty dollars; (5)
196 for the removal and custody of such liquors so seized, reasonable
197 expenses, and twenty dollars; (6) for [~~levying~~] the levy of an execution,
198 when the money is actually collected and paid over, or the debt or a
199 portion of the debt is secured by the officer, [~~to the acceptance of the~~
200 ~~creditor, ten~~] fifteen per cent on the amount of the execution, provided
201 (A) the minimum fee for such execution shall be [twenty] thirty
202 dollars, and (B) if demand is made and execution is served by the
203 officer, the creditor or the creditor's agent is responsible for payment of
204 the officer's fee under this subdivision if such debt is satisfied at a later
205 time; (7) on the levy of an execution on real property and on
206 application for sale of personal property attached, to each appraiser,
207 for each half day of actual service, reasonable and customary expenses;
208 (8) for causing an execution levied on real property to be recorded, fees
209 for travel, twenty dollars and costs; (9) for services on an application
210 for the sale of personal property attached, or in selling mortgaged
211 property foreclosed under a decree of court, the same fees as for
212 similar services on executions; (10) for committing any person to a
213 community correctional center, in civil actions, twenty-one cents a mile
214 for travel, from the place of the court to the community correctional

215 center, in lieu of all other expenses; and (11) for summoning and
216 attending a jury for reassessing damages or benefits on a highway,
217 three dollars a day. The court shall tax as costs a reasonable amount for
218 the care of property held by any officer under attachment or execution.
219 The officer serving any attachment or execution may claim
220 compensation for time and expenses of any person, in keeping,
221 securing or removing property taken thereon, provided such officer
222 shall make out a bill. The bill shall specify the labor done, and by
223 whom, the time spent, the travel, the money paid, if any, and to whom
224 and for what. The compensation for the services shall be reasonable
225 and customary and the amount of expenses and shall be taxed by the
226 court with the costs.

227 Sec. 10. Subsection (d) of section 52-361a of the general statutes is
228 repealed and the following is substituted in lieu thereof (*Effective*
229 *October 1, 2002*):

230 (d) The levying officer shall levy on all earnings which are due or
231 become due to the judgment debtor to the extent specified in the wage
232 execution plus the levying officer's fee and costs, until the judgment is
233 satisfied, or the execution is modified or set aside, by serving the
234 employer with [two copies of] the wage execution, the required notice
235 of rights and the claim forms. On receipt thereof, the employer shall
236 forthwith deliver a copy thereof to the judgment debtor, or mail such
237 copy postage prepaid to the judgment debtor at his last-known
238 address. On service of the wage execution on the employer, the wage
239 execution shall automatically be stayed for a period of twenty days
240 and shall thereafter immediately become a lien and continuing levy on
241 such portion of the judgment debtor's earnings as is specified [therein]
242 in the wage execution, provided if a claim is filed in accordance with
243 subsection (d) of section 52-361b within twenty days of such service on
244 the employer, the stay shall continue until determination of the claim.
245 Any service of process or other notice required under this section may
246 be made in accordance with section 52-57, as amended by this act, or
247 by certified mail, return receipt requested.

248 Sec. 11. Section 52-367a of the general statutes is repealed and the
249 following is substituted in lieu thereof (*Effective October 1, 2002*):

250 As used in this section and section 52-367b, [the term "banking
251 institution"] as amended by this act, "financial institution" means any
252 bank, savings bank, savings and loan association, [or] credit union or
253 securities brokerage firm organized, chartered or licensed under the
254 laws of this state or the United States and having its main office in this
255 state, or any similar out-of-state institution having a branch office in
256 this state. Execution may be granted pursuant to this section against
257 any debts due from any [banking] financial institution to a judgment
258 debtor which is not a natural person. If execution is desired against
259 any such debt, the plaintiff requesting the execution shall so notify the
260 clerk of the court, and the clerk shall issue such execution containing a
261 direction that the officer serving [the same] such execution shall make
262 demand (1) upon the main office of any [banking] financial institution
263 having its main office within the county of [such officer] the serving
264 officer, or (2) if such main office is not within [such] the serving
265 officer's county and such [banking] financial institution has one or
266 more branch offices within such county, upon an employee of such a
267 branch office, such employee and branch office having been
268 designated by the [banking] financial institution in accordance with
269 regulations adopted by the Commissioner of Banking, in accordance
270 with chapter 54, for the payment of any debt due to the judgment
271 debtor, and, after having made such demand, shall serve a true and
272 attested copy thereof, with [his] the serving officer's actions thereon
273 endorsed, with the [banking] financial institution officer upon whom
274 such demand is made. If any such [banking] financial institution upon
275 which such execution is served and upon which such demand is made
276 is indebted to the judgment debtor, it shall pay to such serving officer,
277 in the manner and at the time [hereinafter] described in this section,
278 the amount of such indebtedness not exceeding the amount due on
279 such execution, to be received and applied on such execution by such
280 serving officer. Such [banking] financial institution shall act upon such
281 execution according to section 42a-4-303 before its midnight deadline,
282 as defined in section 42a-4-104. If such [banking] financial institution

283 fails or refuses to pay over to such servicing officer the amount of such
284 debt, not exceeding the amount due on such execution, such [banking]
285 financial institution shall be liable in an action therefor to the judgment
286 creditor named in such execution, and the amount so recovered by
287 such judgment creditor shall be applied toward the payment of the
288 amount due on such execution.

289 Sec. 12. Section 52-367b of the general statutes, as amended by
290 section 1 of public act 01-196 and section 12 of public act 01-9 of the
291 June special session, is repealed and the following is substituted in lieu
292 thereof (*Effective October 1, 2002*):

293 (a) Execution may be granted pursuant to this section against any
294 debts due from any [banking] financial institution to a judgment
295 debtor who is a natural person, except to the extent such debts are
296 protected from execution by sections 52-352a, 52-352b, 52-352c, of the
297 general statutes, revision of 1958, revised to 1983, 52-354 of the general
298 statutes, revision of 1958, revised to 1983, 52-361 of the general
299 statutes, revision of 1958, revised to 1983 and section 52-361a, as well
300 as by any other laws or regulations of this state or of the United States
301 which exempt such debts from execution.

302 (b) If execution is desired against any such debt, the plaintiff
303 requesting the execution shall notify the clerk of the court. In a IV-D
304 case, the request for execution shall be accompanied by an affidavit
305 signed by the [levying] servicing officer attesting to an overdue support
306 amount of five hundred dollars or more which accrued after the entry
307 of an initial family support judgment. If the papers are in order, the
308 clerk shall issue such execution containing a direction that the officer
309 serving [the same] such execution shall, within seven days from the
310 receipt by the servicing officer of such execution, make demand (1) upon
311 the main office of any [banking] financial institution having its main
312 office within the county of [such] the servicing officer, or (2) if such main
313 office is not within [such] the servicing officer's county and such
314 [banking] financial institution has one or more branch offices within
315 such county, upon an employee of such a branch office, such employee

316 and branch office having been designated by the [banking] financial
317 institution in accordance with regulations adopted by the
318 Commissioner of Banking, in accordance with chapter 54, for payment
319 of any such nonexempt debt due to the judgment debtor and, after
320 having made such demand, shall serve a true and attested copy of the
321 execution, together with the affidavit and exemption claim form
322 prescribed by subsection (k) of this section, with [such] the serving
323 officer's [doings] actions endorsed thereon, with the [banking]
324 financial institution officer upon whom such demand is made. If the
325 officer serving such execution has made an initial demand pursuant to
326 this subsection within such seven-day period, the serving officer may
327 make additional demands [on] upon the main office of other [banking]
328 financial institutions or employees of other branch offices pursuant to
329 subdivision (1) or (2) of this subsection, provided any such additional
330 demand is made not later than forty-five days from the receipt by the
331 serving officer of such execution.

332 (c) If any such [banking] financial institution upon which such
333 execution is served and upon which such demand is made is indebted
334 to the judgment debtor, [it] the financial institution shall remove from
335 the judgment debtor's account the amount of such indebtedness not
336 exceeding the amount due on such execution before its midnight
337 deadline, as defined [by] in section 42a-4-104. Notwithstanding the
338 provisions of this subsection, if electronic direct deposits that are
339 readily identifiable as exempt federal veterans' benefits, Social Security
340 benefits, including, but not limited to, retirement, survivors' and
341 disability benefits or supplemental security income benefits were made
342 to the judgment debtor's account during the thirty-day period
343 preceding the date that the execution was served on the [banking]
344 financial institution, then [a banking] the financial institution shall
345 leave the lesser of the account balance or eight hundred dollars in the
346 judgment debtor's account, [;] provided nothing in this subsection shall
347 be construed to limit a [bank's] financial institution's right or obligation
348 to remove such funds from the judgment debtor's account if required
349 by any other provision of law or by a court order. The judgment debtor
350 shall have access to such funds left in the judgment debtor's account

351 pursuant to this subsection. The [banking] financial institution may
352 notify the judgment creditor that funds have been left in the judgment
353 debtor's account pursuant to this subsection. Nothing in this
354 subsection shall alter the exempt status of funds which are exempt
355 from execution under subsection (a) of this section or under any other
356 provision of state or federal law, or the right of a judgment debtor to
357 claim such exemption. Nothing in this subsection shall be construed to
358 affect any other rights or obligations of the [banking] financial
359 institution with regard to the funds in the judgment debtor's account.

360 (d) If any funds are removed from the judgment debtor's account
361 pursuant to subsection (c) of this section, upon receipt of the execution
362 and exemption claim form from the serving officer, the [banking]
363 financial institution shall forthwith mail copies thereof, postage
364 prepaid, to the judgment debtor at the judgment debtor's last known
365 address with respect to the affected accounts on the records of the
366 [banking] financial institution. The financial institution shall hold the
367 amount removed from the judgment debtor's account pursuant to
368 subsection (c) of this section for fifteen days from the date of the
369 mailing to the judgment debtor and during such period shall not pay
370 the serving officer.

371 (e) To prevent the [banking] financial institution from paying the
372 serving officer, as provided in subsection (h) of this section, the
373 judgment debtor shall give notice of a claim of exemption by
374 delivering to the [banking] financial institution, by mail or other
375 means, the exemption claim form or other written notice that an
376 exemption is being claimed. The [banking] financial institution may
377 designate an address to which the notice of a claim of exemption shall
378 be delivered. Upon receipt of such notice, the [banking] financial
379 institution shall, within two business days, send a copy of such notice
380 to the clerk of the court which issued the execution.

381 (f) (1) Upon receipt of an exemption claim form, the clerk of the
382 court shall enter the appearance of the judgment debtor with the
383 address set forth in the exemption claim form. The clerk shall

384 forthwith send file-stamped copies of the form to the judgment
385 creditor and judgment debtor with a notice stating that the disputed
386 [assets] funds are being held for forty-five days from the date the
387 exemption claim form was received by the [banking] financial
388 institution or until a court order is entered regarding the disposition of
389 the funds, whichever occurs earlier, and the clerk shall automatically
390 schedule the matter for a short calendar hearing. The claim of
391 exemption filed by such judgment debtor shall be prima facie evidence
392 at such hearing of the existence of the exemption.

393 (2) Upon receipt of notice from the [banking] financial institution
394 pursuant to subsection (c) of this section, a judgment creditor may, on
395 an ex parte basis, present to a judge of the Superior Court an affidavit
396 sworn under oath by a competent party demonstrating a reasonable
397 belief that such judgment debtor's account contains funds which are
398 not exempt from execution and the amount of such nonexempt funds.
399 Such affidavit shall not be conclusory but is required to show the
400 factual basis upon which the reasonable belief is based. If such judge
401 finds that the judgment creditor has demonstrated a reasonable belief
402 that such judgment debtor's account contains funds which are not
403 exempt from execution, such judge shall authorize the judgment
404 creditor to submit a written application to the clerk of the court for a
405 hearing on the exempt status of funds left in the judgment debtor's
406 account pursuant to subsection (c) of this section. The judgment
407 creditor shall promptly send a copy of the application and the
408 supporting affidavit to the judgment debtor. Upon receipt of such
409 application, the clerk of the court shall automatically schedule the
410 matter for a short calendar hearing and shall give written notice to
411 both the judgment creditor and the judgment debtor. The notice to the
412 judgment creditor pursuant to subsection (c) of this section shall be
413 prima facie evidence at such hearing that the funds in the account are
414 exempt funds. The burden of proof shall be upon the judgment
415 creditor to establish the amount of funds which are not exempt.

416 (g) If an exemption claim is made pursuant to subsection (e) of this
417 section, the [banking] financial institution shall continue to hold the

418 amount removed from the judgment debtor's account for forty-five
419 days or until a court order is received regarding disposition of the
420 funds, whichever occurs earlier. If no such order is received within
421 forty-five days of the date the [banking] financial institution sends a
422 copy of the exemption claim form or notice of exemption to the clerk of
423 the court, the [banking] financial institution shall return the funds to
424 the judgment debtor's account.

425 (h) If no claim of exemption is received by the [banking] financial
426 institution within fifteen days of the mailing to the judgment debtor of
427 the execution and exemption claim form pursuant to subsection (d) of
428 this section, the [banking] financial institution shall, upon demand,
429 forthwith pay the serving officer the amount removed from the
430 judgment debtor's account, and the serving officer shall thereupon pay
431 such sum, less such serving officer's fees, to the judgment creditor,
432 except to the extent otherwise ordered by a court.

433 (i) The court, after a hearing conducted pursuant to subsection (f) of
434 this section, shall enter an order determining the issues raised by the
435 claim of exemption. The clerk of the court shall forthwith send a copy
436 of such order to the [banking] financial institution. Such order shall be
437 deemed to be a final judgment for the purposes of appeal. No appeal
438 shall be taken except within seven days of the rendering of the order.
439 The order of the court may be implemented during such seven-day
440 period, unless stayed by the court.

441 (j) If both exempt and nonexempt moneys have been deposited into
442 an account, for the purposes of determining which moneys are exempt
443 under this section, the moneys most recently deposited as of the time
444 the execution is [levied] served shall be deemed to be the moneys
445 remaining in the account.

446 (k) The execution, exemption claim form [, execution] and clerk's
447 notice regarding the filing of a claim of exemption shall be in such
448 form as prescribed by the judges of the Superior Court or their
449 designee. The exemption claim form shall be dated and include a
450 checklist and description of the most common exemptions, instructions

451 on the manner of claiming the exemptions [,] and a space for the
452 judgment debtor to certify those exemptions claimed under penalty of
453 false statement.

454 (l) If records or testimony are subpoenaed from a [banking] financial
455 institution in connection with a hearing conducted pursuant to
456 subsection (f) of this section, the reasonable costs and expenses of the
457 [banking] financial institution in complying [therewith] with the
458 subpoena shall be recoverable by [it] the financial institution from the
459 party requiring such records or testimony, provided, the [banking]
460 financial institution shall be under no obligation to attempt to obtain
461 records or documentation relating to the account executed against
462 which are held by any other [banking] financial institution. The
463 records of a [banking] financial institution as to the dates and amounts
464 of deposits into an account in [such] the financial institution shall, if
465 certified as true and accurate by an officer of the [banking] financial
466 institution, be admissible as evidence without the presence of the
467 officer in any hearing conducted pursuant to subsection (f) of this
468 section to determine the legitimacy of a claim of exemption made
469 under this section.

470 (m) If there are moneys to be removed from the judgment debtor's
471 account, prior to the removal of such moneys pursuant to subsection
472 (c) of this section, the [banking] financial institution shall receive from
473 the serving officer as representative of the judgment creditor a fee of
474 eight dollars for [its] the financial institution's costs in complying with
475 the provisions of this section which fee may be recoverable by the
476 judgment creditor as a taxable cost of the action.

477 (n) If the [banking] financial institution fails or refuses to pay over to
478 the serving officer the amount of such debt, not exceeding the amount
479 due on such execution, such [banking] financial institution shall be
480 liable in an action therefor to the judgment creditor named in such
481 execution for the amount of nonexempt moneys which [it] the financial
482 institution failed or refused to pay over, excluding funds of up to eight
483 hundred dollars which the [banking] financial institution in good faith

484 allowed the judgment debtor to access pursuant to subsection (c) of
485 this section. The amount so recovered by such judgment creditor shall
486 be applied toward the payment of the amount due on such execution.
487 Thereupon, the rights of the [banking] financial institution shall be
488 subrogated to the rights of the judgment creditor. If such [banking]
489 financial institution pays exempt moneys from the account of the
490 judgment debtor over to the serving officer contrary to the provisions
491 of this section, such [banking] financial institution shall be liable in an
492 action therefor to the judgment debtor for any exempt moneys so paid
493 and such [banking] financial institution shall refund or waive any
494 charges or fees by the [bank] financial institution, including, but not
495 limited to, dishonored check fees, overdraft fees or minimum balance
496 service charges and legal process fees, which were assessed as a result
497 of such payment of exempt moneys. Thereupon, the rights of the
498 [banking] financial institution shall be subrogated to the rights of the
499 judgment debtor.

500 (o) Except as provided in subsection (n) of this section, no [banking]
501 financial institution or any officer, director or employee [thereof] of
502 such financial institution shall be liable to any person with respect to
503 [anything] any act done or omitted in good faith or through the
504 commission of a bona fide error that occurred despite reasonable
505 procedures maintained by the [banking] financial institution to
506 prevent such errors in complying with the provisions of this section.

507 (p) Nothing in this section shall in any way restrict the rights and
508 remedies otherwise available to a judgment debtor at law or in equity.

509 (q) Nothing in this section shall in any way affect any rights of the
510 [banking] financial institution with respect to uncollected funds
511 credited to the account of the judgment debtor, which rights shall be
512 superior to those of the judgment creditor.

513 (r) For the purposes of this subsection, "exempt" shall have the same
514 meaning as provided in subsection (c) of section 52-352a. Funds
515 deposited in an account that has been established for the express
516 purpose of receiving electronic direct deposits of public assistance

517 payments from the Department of Social Services shall be exempt.

518 Sec. 13. Section 52-593a of the general statutes, as amended by
519 section 66 of public act 01-195, is repealed and the following is
520 substituted in lieu thereof (*Effective October 1, 2002*):

521 (a) Except in the case of an appeal from an administrative agency
522 governed by section 4-183, a cause or right of action shall not be lost
523 because of the passage of the time limited by law within which the
524 action may be brought, if the process to be served is personally
525 delivered to a state marshal authorized to serve the process and the
526 process is served, as provided by law, within [~~fifteen~~] thirty days of the
527 delivery.

528 (b) In any such case, the state marshal making service shall endorse
529 under oath on such state marshal's return the date of delivery of the
530 process to such state marshal for service in accordance with this
531 section.

532 Sec. 14. (*Effective October 1, 2002*) Section 52-53 of the general statutes
533 is repealed.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>July 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>
Sec. 8	<i>October 1, 2002</i>
Sec. 9	<i>October 1, 2002</i>
Sec. 10	<i>October 1, 2002</i>
Sec. 11	<i>October 1, 2002</i>
Sec. 12	<i>October 1, 2002</i>
Sec. 13	<i>October 1, 2002</i>
Sec. 14	<i>October 1, 2002</i>

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Transfer from	State Marshal Commission	-	up to 62,500	up to 62,500

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill permits the State Marshal Commission Advisory Board to spend up to 25% of the money in the state marshal account available each fiscal year. Up to \$250,000 is deposited into the account annually from a filing fee on civil actions (other than small claims) and a fee that state marshals pay. These funds are available to the State Marshal Commission to pay for operating expenses, including salaries, and represent over 50% of the total funds available to the agency.¹ If the State Marshal Commission Advisory Board spent the maximum amount available to it, the ability of the State Marshal Commission to hire new state marshals, oversee the performance of state marshals, and train them would be reduced.

¹ The total FY 03 appropriation to the agency from the General Fund is \$228,483.

OLR Bill Analysis

sHB 5740

AN ACT CONCERNING STATE MARSHALS**SUMMARY:**

This bill:

1. increases the membership of the State Marshal Commission (SMC) from eight to 10 by making the two state marshals appointed by the State Marshals Advisory Board full members of the SMC rather than nonvoting, ex-officio members;
2. requires the SMC to conduct random audits of the records and accounts of up to 10 state marshals a year instead of periodic reviews and audits;
3. makes up to 25% of the money in the state marshal account available each fiscal year for the operating expenses of the State Marshals Advisory Board, beginning with FY 2002-03;
4. makes several changes in state marshal procedures;
5. changes the method of serving a summons on a physician and in claims involving municipal employees;
6. increases some service of process fees;
7. extends the time a person serving a notice of intent to claim a lien has to return it to the notice's maker; and
8. makes the statutes dealing with executing against debts of a judgment debtor applicable to securities brokerage firms.

EFFECTIVE DATE: October 1, 2002, except for the provision on funding the State Marshals Advisory Board, which is effective July 1, 2002.

STATE MARSHAL COMMISSION

The bill increases the membership of the SMC from eight to 10 by making the two state marshals appointed by the State Marshal Advisory Board full members of the SMC rather than nonvoting, ex-officio members. Under current law, the commission's eight members are appointed by legislative leaders, the chief justice, and the governor. The bill allows up to five, rather than up to four, members (not counting the chairman) to be from the same political party. It requires that at least four of the nine nonjudicial members (not counting the

chairman) not be attorneys registered in any state. Current law applies this rule to three out of the seven non-judicial members.

The bill requires the SMC to conduct random audits of the records and accounts of up to 10 state marshals per year. Current law requires periodic reviews and audits of state marshals. The bill allows additional audits of a state marshal after receipt of a signed, written complaint. The bill makes all information obtained in the audits (which also include audits on the death or disability of a state marshal as required by current law) confidential and not subject to the Freedom of Information Act.

The bill also makes up to 25% of the state marshal account available each fiscal year for the operating expenses of the State Marshals Advisory Board, beginning with FY 2002-03. By law, the state marshal account receives the first \$250,000 collected each fiscal year from the state marshal annual fee and a court filing fee for the SMC's operating expenses. Until July 1, 2006, the Office of Policy and Management must review and approve or disapprove the SMC's budget.

STATE MARSHAL PROCEDURES

Under current law, a state marshal cannot knowingly bill for or receive fees for work he did not actually perform. The bill creates an exception that allows a state marshal to bill for and receive money when he paid another person to do work for, or on behalf of, the person from whom reimbursement is sought.

The bill eliminates the authority of a state marshal to depute a proper person to serve process on a special occasion and the requirements for valid service in these circumstances.

Under current law, an action (other than an appeal from an administrative agency under the Uniform Administrative Procedure Act) is not barred because the statute of limitations has passed if the process to be served is personally delivered to a state marshal who is authorized to serve the process and it is served within 15 days of delivery. The bill increases this period to within 30 days of delivery.

METHODS OF SERVING PROCESS

For actions against a town, city, or borough employee based on the

employee's duties or employment, the bill allows service of process on (1) the employee or (2) the town, city, or borough clerk. If service is made on a clerk, there must be two copies served, with the clerk keeping one and forwarding one to the employee.

The bill also allows service of a subpoena summoning a physician as a witness to be made on the office manager or person in charge of the physician's office or principal place of business. The manager or person acts as the physician's agent and the service is deemed service on the physician.

FEES

The bill increases the additional fee for serving process, summons, or attachments on second and subsequent defendants from \$10 to \$30. But it also provides that there can be only one additional \$30 fee for serving process on subsequent defendants at the same address. As under current law, the fee for serving the first process, summons, or attachment is \$30. These fees are subject to some exceptions and there are different fees for service for the Judicial Department and Division of Criminal Justice.

The bill increases the fee for a person who levies an execution and either collects and pays money or secures a debt from 10% to 15% of the amount of the execution. It increases the minimum fee for this execution from \$20 to \$30. It specifies that if demand is made and the execution is served, the creditor or its agent is responsible for paying the fee if the debt is satisfied later.

Under current law, a person serving a wage execution on the debtor's employer levies against the debtor's earnings to the extent specified in the wage execution. The bill adds the levying officer's fees and costs to the amount levied. The bill requires service of one instead of two copies of the wage execution, required notice of rights, and claim forms on the employer. It also allows service of process or other notice by certified mail, return receipt requested, in addition to the current statutory means of service.

LIENS

The bill extends the period that a person serving a notice of intent to claim a lien has to return the notice to its maker. Under current law,

someone who is not the original contractor or a subcontractor with a written contract with the original contractor assented to in writing by the other party, must provide written notice to the property owner and the original contractor of intent to claim a lien within 90 days of stopping services or furnishing materials. The person serving the notice must return the notice to its maker within the 90-day period. For a lien to be valid, the law also requires filing a certificate on the land records within this 90-day period and serving the property owner with a copy of the certificate within 30 days after filing it. The bill extends the period that the person serving the notice of intent to claim the lien has to return it to the maker of the notice to up to 30 days after filing the certificate, rather than requiring this to be done during the 90-day period.

SECURITIES BROKERAGE FIRMS

The bill also replaces the term “banking institution” with “financial institution” in statutes dealing with executing against debts of a judgment debtor. It also makes these statutes applicable to securities brokerage firms by adding them to the definition of the term. Under current law, the term “banking institution” means a bank, savings bank, savings and loan association, or credit union that is organized, chartered, or licensed under state or federal law and that has its main office in Connecticut, or a similar out-of-state institution with a branch in this state.

BACKGROUND

State Marshal Commission

The State Marshal Commission fills vacancies in state marshal positions, establishes professional standards for marshals (in consultation with the State Marshals Advisory Board), and reviews and audits the records and accounts of state marshals. The commission can remove a state marshal for cause, after notice and hearing.

State Marshals Advisory Board

The State Marshals Advisory Board consists of 24 state marshals elected by the state marshals. The board makes recommendations to the commission on minimum qualifications, professional standards, training requirements, and operational policies.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0