



# House of Representatives

General Assembly

**File No. 574**

January Session, 2003

Substitute House Bill No. 6476

*House of Representatives, April 29, 2003*

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. Section 6-35 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 [Any] A state marshal shall pay over<sub>2</sub> to the person authorized to  
4 receive it, any money collected by such state marshal on behalf of or on  
5 account of such person [, within] not later than thirty calendar days  
6 from the date of collection of the money or upon the collection of one  
7 thousand dollars or more on behalf of or on account of such person,  
8 whichever first occurs, [provided any state marshal who fails to pay  
9 over to the person authorized to receive it, any money collected by  
10 such marshal on behalf or for the account of such person, within thirty  
11 calendar days from the date of collection of the money or upon the  
12 collection of one thousand dollars,] except that the state marshal and  
13 such person may agree to a different time for paying over such money.  
14 A state marshal who fails to comply with the requirements of this

15 section or any such agreement, as applicable, shall be liable to such  
16 person for the payment of interest on the money at the rate of five per  
17 cent per month from the date on which such state marshal received the  
18 money.

19 Sec. 2. Subsection (a) of section 6-38a of the general statutes is  
20 repealed and the following is substituted in lieu thereof (*Effective from*  
21 *passage*):

22 (a) ["State marshal"] For the purposes of the general statutes, "state  
23 marshal" means a qualified deputy sheriff incumbent on June 30, 2000,  
24 under section 6-38 or appointed pursuant to section 6-38b, as amended  
25 by this act, who shall have authority to provide legal execution and  
26 service of process in the counties in this state pursuant to section 6-38  
27 as an independent contractor compensated on a fee for service basis,  
28 determined, subject to any minimum rate promulgated by the state, by  
29 agreement with an attorney, court or public agency requiring  
30 execution or service of process.

31 Sec. 3. Subsection (i) of section 6-38b of the general statutes is  
32 repealed and the following is substituted in lieu thereof (*Effective from*  
33 *passage*):

34 (i) Except as provided in section 6-38f, no person may be a state  
35 marshal and a state employee at the same time. This subsection does  
36 not apply to any person who was both a state employee and a deputy  
37 sheriff or special deputy sheriff on April 27, 2000.

38 Sec. 4. Section 6-38e of the general statutes is repealed and the  
39 following is substituted in lieu thereof (*Effective from passage*):

40 The State Marshal Commission shall periodically review and audit  
41 the records and accounts of the state marshals. Upon the death or  
42 disability of a state marshal, the commission shall appoint a qualified  
43 individual to oversee and audit the records and accounts of such state  
44 marshal and render an accounting to the commission. All information  
45 obtained by the commission from any audit conducted pursuant to this

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

48 Sec. 5. Subsection (d) of section 6-38m of the general statutes is  
49 repealed and the following is substituted in lieu thereof (*Effective from*  
50 *passage*):

51 (d) The first two hundred fifty thousand dollars collected each fiscal  
52 year, pursuant to subsections (b) and (c) of this section, shall be  
53 credited to the state marshal account and be available for expenditure  
54 by the State Marshal Commission for the operating expenses of the  
55 commission. From July 1, 2001, until July 1, 2006, the Secretary of the  
56 Office of Policy and Management shall review and approve or  
57 disapprove the budget of the commission. For the fiscal year ending  
58 June 30, 2004, and each fiscal year thereafter, the State Marshals  
59 Advisory Board shall submit to the State Marshal Commission a  
60 request for administrative support for such fiscal year. Such request  
61 shall be submitted prior to the beginning of such fiscal year.

62 Sec. 6. Section 49-34 of the general statutes is repealed and the  
63 following is substituted in lieu thereof (*Effective from passage*):

64 A mechanic's lien is not valid [.] unless the person performing the  
65 services or furnishing the materials [.] (1) within ninety days after he  
66 has ceased to do so, lodges with the town clerk of the town in which  
67 the building, lot or plot of land is situated a certificate in writing,  
68 which shall be recorded by the town clerk with deeds of land, (A)  
69 describing the premises, the amount claimed as a lien thereon, the  
70 name or names of the person against whom the lien is being filed and  
71 the date of the commencement of the performance of services or  
72 furnishing of materials, (B) stating that the amount claimed is justly  
73 due, as nearly as the same can be ascertained, and (C) subscribed and  
74 sworn to by the claimant, and (2) [within the same time, or prior to the  
75 lodging of the certificate but] not later than thirty days after lodging  
76 the certificate, serves a true and attested copy of the certificate upon  
77 the owner of the building, lot or plot of land in the same manner as is  
78 provided for the service of the notice in section 49-35, as amended by

79 this act.

80 Sec. 7. Subsection (a) of section 49-35 of the general statutes is  
81 repealed and the following is substituted in lieu thereof (*Effective from*  
82 *passage*):

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

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

129 Sec. 8. Subsection (b) of section 52-57 of the general statutes is  
130 repealed and the following is substituted in lieu thereof (*Effective from*  
131 *passage*):

132 (b) Process in civil actions against the following-described classes of  
133 defendants shall be served as follows: (1) Against a town, upon its  
134 clerk, assistant clerk, manager or one of its selectmen; (2) against a city,  
135 upon its clerk or assistant clerk or upon its mayor or manager; (3)  
136 against a borough, upon its manager, clerk or assistant clerk or upon  
137 the warden or one of its burgesses; (4) against a school district, upon  
138 its clerk or one of its committee; [and] (5) against a board, commission,  
139 department or agency of a town, city or borough, notwithstanding any  
140 provision of the general statutes, upon (A) the clerk of the town, city or  
141 borough, provided two copies of such process shall be served upon the  
142 clerk and the clerk shall retain one copy and forward the second copy  
143 to the board, commission, department or agency, or (B) the clerk or the  
144 chief presiding officer or other executive head of the board,  
145 commission, department or agency; (6) against other municipal or  
146 quasi-municipal corporations, upon its clerk or upon its chief

147 presiding officer or managing agent; and (7) against an employee of a  
148 town, city or borough in a cause of action arising from the employee's  
149 duties or employment, upon (A) the clerk of the town, city or borough,  
150 provided two copies of such process shall be served upon the clerk and  
151 the clerk shall retain one copy and forward the second copy to the  
152 employee, or (B) the employee pursuant to subsection (a) of this  
153 section.

154 Sec. 9. Section 52-143 of the general statutes is amended by adding  
155 subsection (f) as follows (*Effective from passage*):

156 (NEW) (f) Any subpoena summoning a physician as a witness may  
157 be served upon the office manager or person in charge at the office or  
158 principal place of business of such physician who shall act as the agent  
159 of the physician named in the subpoena. Service upon the agent shall  
160 be deemed to be service upon the physician.

161 Sec. 10. Subsection (a) of section 52-261 of the general statutes is  
162 repealed and the following is substituted in lieu thereof (*Effective from*  
163 *passage*):

164 (a) Except as provided in subsection (b) of this section and section  
165 52-261a, each officer or person who serves process, summons or  
166 attachments shall receive a fee of not more than thirty dollars for each  
167 process served and an additional fee of [ten] thirty dollars for the  
168 second and each subsequent [defendant upon whom the process is  
169 served] service of such process, except that such officer or person shall  
170 receive an additional fee of ten dollars for each subsequent service of  
171 such process at the same address. Each such officer or person shall also  
172 receive the fee set by the Department of Administrative Services for  
173 state employees for each mile of travel, to be computed from the place  
174 where such officer or person received the process to the place of  
175 service, and thence in the case of civil process to the place of return. If  
176 more than one process is served on one person at one time by any such  
177 officer or person, the total cost of travel for the service shall be the  
178 same as for the service of one process only. Each officer or person who  
179 serves process shall also receive the moneys actually paid for town

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

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

228       Sec. 11. Subsection (d) of section 52-361a of the general statutes is  
229 repealed and the following is substituted in lieu thereof (*Effective from*  
230 *passage*):

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

249 Sec. 12. Section 52-367a of the general statutes is repealed and the  
250 following is substituted in lieu thereof (*Effective from passage*):

251 As used in this section and section 52-367b, [the term "banking  
252 institution"] as amended by this act, "financial institution" means any  
253 bank, savings bank, savings and loan association or credit union  
254 organized, chartered or licensed under the laws of this state or the  
255 United States and having its main office in this state, or any similar  
256 out-of-state institution having a branch office in this state. Execution  
257 may be granted pursuant to this section against any debts due from  
258 any [banking] financial institution to a judgment debtor which is not a  
259 natural person. If execution is desired against any such debt, the  
260 plaintiff requesting the execution shall so notify the clerk of the court,  
261 and the clerk shall issue such execution containing a direction that the  
262 officer serving [the same] such execution shall make demand (1) upon  
263 the main office of any [banking] financial institution having its main  
264 office within the county of [such] the serving officer, or (2) if such main  
265 office is not within [such] the serving officer's county and such  
266 [banking] financial institution has one or more branch offices within  
267 such county, upon an employee of such a branch office, such employee  
268 and branch office having been designated by the [banking] financial  
269 institution in accordance with regulations adopted by the  
270 Commissioner of Banking, in accordance with chapter 54, for the  
271 payment of any debt due to the judgment debtor, and, after having  
272 made such demand, shall serve a true and attested copy thereof, with  
273 [his] the serving officer's actions thereon endorsed, with the [banking]  
274 financial institution officer upon whom such demand is made. If any  
275 such [banking] financial institution upon which such execution is  
276 served and upon which such demand is made is indebted to the  
277 judgment debtor, it shall pay to such serving officer, in the manner and  
278 at the time [hereinafter] described in this section, the amount of such  
279 indebtedness not exceeding the amount due on such execution, to be  
280 received and applied on such execution by such serving officer. Such  
281 [banking] financial institution shall act upon such execution according  
282 to section 42a-4-303 before its midnight deadline, as defined in section  
283 42a-4-104. If such [banking] financial institution fails or refuses to pay

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

290 Sec. 13. Section 52-367b of the general statutes is repealed and the  
291 following is substituted in lieu thereof (*Effective from passage*):

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

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

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

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

352 funds have been left in the judgment debtor's account pursuant to this  
353 subsection. Nothing in this subsection shall alter the exempt status of  
354 funds which are exempt from execution under subsection (a) of this  
355 section or under any other provision of state or federal law, or the right  
356 of a judgment debtor to claim such exemption. Nothing in this  
357 subsection shall be construed to affect any other rights or obligations  
358 of the [banking] financial institution with regard to the funds in the  
359 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 [banking] financial institution shall  
367 hold the amount removed from the judgment debtor's account  
368 pursuant to subsection (c) of this section for fifteen days from the date  
369 of the mailing to the judgment debtor and during such period shall not  
370 pay 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 funds are being held for forty-five days from the date the exemption  
387 claim form was received by the [banking] financial institution or until  
388 a court order is entered regarding the disposition of the funds,  
389 whichever occurs earlier, and the clerk shall automatically schedule  
390 the matter for a short calendar hearing. The claim of exemption filed  
391 by such judgment debtor shall be prima facie evidence at such hearing  
392 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 served shall be deemed to be the moneys remaining in  
445 the account.

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

452 debtor to certify those exemptions claimed under penalty of false  
453 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 with the subpoena shall be  
458 recoverable by the [banking] financial institution from the party  
459 requiring such records or testimony, provided, the [banking] financial  
460 institution shall be under no obligation to attempt to obtain records or  
461 documentation relating to the account executed against which are held  
462 by any other [banking] financial institution. The records of a [banking]  
463 financial institution as to the dates and amounts of deposits into an  
464 account in the [banking] financial institution shall, if certified as true  
465 and accurate by an officer of the [banking] financial institution, be  
466 admissible as evidence without the presence of the officer in any  
467 hearing conducted pursuant to subsection (f) of this section to  
468 determine the legitimacy of a claim of exemption made under this  
469 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 the [banking] financial institution's costs in complying  
475 with 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 the [banking]  
482 financial institution failed or refused to pay over, excluding funds of  
483 up to one thousand dollars which the [banking] financial institution in  
484 good faith allowed the judgment debtor to access pursuant to

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

500 (o) Except as provided in subsection (n) of this section, no [banking]  
501 financial institution or any officer, director or employee of such  
502 [banking] financial institution shall be liable to any person with respect  
503 to any act done or omitted in good faith or through the commission of  
504 a bona fide error that occurred despite reasonable procedures  
505 maintained by the [banking] financial institution to prevent such errors  
506 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. 14. Section 52-593a of the general statutes is repealed and the  
519 following is substituted in lieu thereof (*Effective from passage*):

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

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

531 Sec. 15. Section 54-64d of the general statutes is repealed and the  
532 following is substituted in lieu thereof (*Effective from passage*):

533 When any person is taken into custody on a capias issued by order  
534 of the Superior Court, the proper officer taking the person into custody  
535 shall, without undue delay, bring such person before the court which  
536 issued the capias. If a courthouse lockup operated by the judicial  
537 branch is available at such court and is operational at the time the  
538 proper officer brings such person to the court, the proper officer shall  
539 transfer the custody of such person to a judicial marshal at the court  
540 unless such person requires medical attention or there is insufficient  
541 space for such person at such lockup. If the court is not in session, the  
542 proper officer shall, without undue delay, bring such person before the  
543 clerk or assistant clerk of the court which issued the capias during the  
544 office hours of the clerk. If the clerk's office is not open, the proper  
545 officer shall, without undue delay, take such person to a community  
546 correctional center within the judicial district where the capias was  
547 issued or, if there is no community correctional center within such  
548 judicial district, to the nearest community correctional center. The clerk  
549 or assistant clerk or a person designated by the Commissioner of  
550 Correction or the Chief Court Administrator shall order the person

551 taken into custody on the capias to enter into the condition of release  
 552 fixed by the court on the condition that such person shall appear  
 553 before the next session of the superior court which issued the capias.  
 554 Upon the failure of such person to enter into the condition of release  
 555 fixed by the court, the person shall be held in the correctional center  
 556 pursuant to the capias until the next session of the court.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage</i>
Sec. 10	<i>from passage</i>
Sec. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>
Sec. 13	<i>from passage</i>
Sec. 14	<i>from passage</i>
Sec. 15	<i>from passage</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:**

<b>Agency Affected</b>	<b>Fund-Type</b>	<b>FY 03 \$</b>	<b>FY 04 \$</b>	<b>FY 05\$</b>
Judicial Dept.	GF - Cost	8,333	75,000	100,000
Judicial Dept.	GF - Cost	None	None	Potential
Social Services, Dept.	GF - Savings	Potential	Potential	Potential

Note: GF=General Fund

#### **Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 03 \$</b>	<b>FY 04 \$</b>	<b>FY 05 \$</b>
Various Municipalities	Cost	Minimal	Minimal	Minimal

#### **Explanation**

The bill increases fees for service of process on multiple persons in the same matter. This would cost the Judicial Department, which pays for certain service of process including civil restraining orders involving domestic violence or for any indigent person, about \$100,000 annually.

The bill requires the Judicial Department to take custody of any person delivered to court on a civil warrant (capias) so long as a courthouse lockup is available and operational, and the person being delivered does not require medical attention. It also permits the Chief Court Administrator to designate judicial marshals to take such individual into custody and set the bond amount. These provisions allow for the delivery of any person on a capias at any time of day to the Hartford and New Haven lockups, which are open 24 hours per day. This change could increase child support enforcement activities

and generate significant state savings.<sup>1</sup> It could also increase the future cost of collective bargaining agreements with judicial marshals by expanding their duties.

The bill requires state marshals to serve process against a board, commission, department or agency of a town upon the clerk of the town two copies of such process, and requires the clerk to forward the second copy to the appropriate person. Under current law, state marshals deliver service to employees and board chairpersons directly at home or work. A minimal cost for mailing would be incurred by municipalities.

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<sup>1</sup> There are approximately 4,000 capiae outstanding, many of which are for child support. The most recent statewide "sweep" of child support delinquents netted 33 people owing \$519,821 (an average of \$15,752).

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**OLR Bill Analysis**

sHB 6476

**AN ACT CONCERNING STATE MARSHALS**

**SUMMARY:**

This bill:

1. allows a state marshal collecting money on someone's behalf to agree with that person to deliver the money at a different time than the statutes require;
2. allows certain state marshals to also be state employees;
3. makes all information obtained in the State Marshal Commission's (SMC) periodic audits of state marshals (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;
4. requires the State Marshals Advisory Board, for each fiscal year beginning with FY 2003-04, to submit to the SMC a request for administrative support prior to the beginning of the next fiscal year;
5. makes changes regarding the method of serving a summons on a physician and service of process in claims involving municipal employees, boards, commissions, departments, and agencies;
6. increases some service of process fees;
7. requires an officer (such as a state marshal) taking someone into custody on a capias to transfer custody of the person to a judicial marshal at the courthouse lockup;
8. extends the time a person serving a notice of intent to claim a lien has to return it to the notice's maker;
9. gives a state marshal more time to serve a process before the statute

of limitations precludes an action; and

10. makes minor and technical changes.

EFFECTIVE DATE: Upon passage

**PAYING FUNDS**

The law requires a state marshal who collects money on behalf of someone to pay the amount within 30 calendar days or when the amount collected reaches \$1,000. The state marshal is liable for interest on the money at the rate of 5% per month from the date he received the money if he does not comply this provision.

The bill allows the state marshal to agree with the person he is collecting money for to a different delivery time. It applies the interest penalty for failure to comply with the agreement.

**STATE EMPLOYMENT**

Under current law, a person cannot be a state marshal and a state employee at the same time. The bill lifts this prohibition for someone who was a state employee and a deputy sheriff or special deputy sheriff on April 27, 2000.

**METHODS OF SERVING PROCESS**

For civil actions against a town, city, or borough board, commission, department, or agency, the bill allows service of process on (1) the town, city, or borough clerk (there must be two copies served, with the clerk keeping one and forwarding one to the board, commission, department, or agency) or (2) the clerk, chief presiding officer, or other executive head of the board, commission, department, or agency.

For civil 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**

Under current law, the additional fee for serving process, summons, or attachments on second and subsequent defendants is \$10. The bill increases this fee to \$30 and instead applies it to second and subsequent service of process. But it also provides that there can be only an additional \$10 fee for serving process 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.

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.

## **COURTHOUSE LOCKUPS**

Under current law, when an officer (state marshal, constable, or other proper officer) takes a person into custody under a *capias* (a court order directing the officer to take a person into custody), the person must be brought to the court that issued the *capias* without undue delay. The bill requires the officer to transfer custody of the person to a judicial marshal at the court if the court has a courthouse lockup operated by the judicial branch that is operational. The officer is not required to do this if the person needs medical attention or the lockup does not have enough space.

By law, if the court is not in session, the officer must bring the person

before the court clerk. If the clerk's office is not open, he must bring the person to a community correctional center. The clerk or someone designated by the correction commissioner must order the person to meet the court-imposed conditions for release and if he does not, he is held in prison until the next court session. The bill allows someone designated by the chief court administrator to also order the person to meet the conditions of release.

## **LIENS**

The bill extends the period that certain subcontractors serving a notice of intent to claim a lien has to return the notice to its maker. Under current law, someone who is not (1) the original contractor or (2) 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.

## **SERVICE AND THE STATUTE OF LIMITATIONS**

The bill gives state marshals 30 days, rather than 15, from receiving a process to serve it without an action being precluded because the statute of limitation has passed. Neither current law nor the bill apply to appeals from agency decisions under the Uniform Administrative Procedure Act.

## **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. Its members are elected by the state marshals in each county. Members serve for one year and can be reelected. Two members serve as ex officio, nonvoting members of the State Marshal Commission.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 38    Nay 0