



# House of Representatives

**File No. 809**

General Assembly

January Session, 2003

**(Reprint of File No. 574)**

Substitute House Bill No. 6476  
As Amended by House  
Amendment Schedules "A" and "B"

Approved by the Legislative Commissioner  
May 31, 2003

## **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 Section 6-35 of the general statutes is repealed and the  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>z</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20 repealed and the following is substituted in lieu thereof (*Effective from*  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 or for notification of the office of the  
172 Attorney General in dissolution and postjudgment proceedings if a  
173 party or child is receiving public assistance. Each such officer or person  
174 shall also receive the fee set by the Department of Administrative  
175 Services for state employees for each mile of travel, to be computed  
176 from the place where such officer or person received the process to the  
177 place of service, and thence in the case of civil process to the place of  
178 return. If more than one process is served on one person at one time by

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

214 personal property attached, or in selling mortgaged property  
215 foreclosed under a decree of court, the same fees as for similar services  
216 on executions; (10) for committing any person to a community  
217 correctional center, in civil actions, twenty-one cents a mile for travel,  
218 from the place of the court to the community correctional center, in  
219 lieu of all other expenses; and (11) for summoning and attending a jury  
220 for reassessing damages or benefits on a highway, three dollars a day.  
221 The court shall tax as costs a reasonable amount for the care of  
222 property held by any officer under attachment or execution. The  
223 officer serving any attachment or execution may claim compensation  
224 for time and expenses of any person, in keeping, securing or removing  
225 property taken thereon, provided such officer shall make out a bill.  
226 The bill shall specify the labor done, and by whom, the time spent, the  
227 travel, the money paid, if any, and to whom and for what. The  
228 compensation for the services shall be reasonable and customary and  
229 the amount of expenses and shall be taxed by the court with the costs.

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

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

248 Any service of process or other notice required under this section may  
249 be made in accordance with section 52-57, as amended by this act, or  
250 by certified mail, return receipt requested, provided a levying officer  
251 may make such service by mail only to an address within such officer's  
252 appointed jurisdiction.

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

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

282 at the time [hereinafter] described in this section, the amount of such  
283 indebtedness not exceeding the amount due on such execution, to be  
284 received and applied on such execution by such servicing officer. Such  
285 [banking] financial institution shall act upon such execution according  
286 to section 42a-4-303 before its midnight deadline, as defined in section  
287 42a-4-104. If such [banking] financial institution fails or refuses to pay  
288 over to such servicing officer the amount of such debt, not exceeding the  
289 amount due on such execution, such [banking] financial institution  
290 shall be liable in an action therefor to the judgment creditor named in  
291 such execution, and the amount so recovered by such judgment  
292 creditor shall be applied toward the payment of the amount due on  
293 such execution.

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

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

305 (b) If execution is desired against any such debt, the plaintiff  
306 requesting the execution shall notify the clerk of the court. In a IV-D  
307 case, the request for execution shall be accompanied by an affidavit  
308 signed by the serving officer attesting to an overdue support amount  
309 of five hundred dollars or more which accrued after the entry of an  
310 initial family support judgment. If the papers are in order, the clerk  
311 shall issue such execution containing a direction that the officer  
312 serving such execution shall, within seven days from the receipt by the  
313 serving officer of such execution, make demand (1) upon the main  
314 office of any [banking] financial institution having its main office

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

334 (c) If any such [banking] financial institution upon which such  
335 execution is served and upon which such demand is made is indebted  
336 to the judgment debtor, the [banking] financial institution shall remove  
337 from the judgment debtor's account the amount of such indebtedness  
338 not exceeding the amount due on such execution before its midnight  
339 deadline, as defined in section 42a-4-104. Notwithstanding the  
340 provisions of this subsection, if electronic direct deposits that are  
341 readily identifiable as exempt federal veterans' benefits, Social Security  
342 benefits, including, but not limited to, retirement, survivors' and  
343 disability benefits, supplemental security income benefits or child  
344 support payments processed and received pursuant to Title IV-D of  
345 the Social Security Act were made to the judgment debtor's account  
346 during the thirty-day period preceding the date that the execution was  
347 served on the [banking] financial institution, then [a banking] the  
348 financial institution shall leave the lesser of the account balance or one

349 thousand dollars in the judgment debtor's account, provided nothing  
350 in this subsection shall be construed to limit a [banking] financial  
351 institution's right or obligation to remove such funds from the  
352 judgment debtor's account if required by any other provision of law or  
353 by a court order. The judgment debtor shall have access to such funds  
354 left in the judgment debtor's account pursuant to this subsection. The  
355 [banking] financial institution may notify the judgment creditor that  
356 funds have been left in the judgment debtor's account pursuant to this  
357 subsection. Nothing in this subsection shall alter the exempt status of  
358 funds which are exempt from execution under subsection (a) of this  
359 section or under any other provision of state or federal law, or the right  
360 of a judgment debtor to claim such exemption. Nothing in this  
361 subsection shall be construed to affect any other rights or obligations  
362 of the [banking] financial institution with regard to the funds in the  
363 judgment debtor's account.

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

375 (e) To prevent the [banking] financial institution from paying the  
376 serving officer, as provided in subsection (h) of this section, the  
377 judgment debtor shall give notice of a claim of exemption by  
378 delivering to the [banking] financial institution, by mail or other  
379 means, the exemption claim form or other written notice that an  
380 exemption is being claimed. The [banking] financial institution may  
381 designate an address to which the notice of a claim of exemption shall  
382 be delivered. Upon receipt of such notice, the [banking] financial

383 institution shall, within two business days, send a copy of such notice  
384 to the clerk of the court which issued the execution.

385 (f) (1) Upon receipt of an exemption claim form, the clerk of the  
386 court shall enter the appearance of the judgment debtor with the  
387 address set forth in the exemption claim form. The clerk shall  
388 forthwith send file-stamped copies of the form to the judgment  
389 creditor and judgment debtor with a notice stating that the disputed  
390 funds are being held for forty-five days from the date the exemption  
391 claim form was received by the [banking] financial institution or until  
392 a court order is entered regarding the disposition of the funds,  
393 whichever occurs earlier, and the clerk shall automatically schedule  
394 the matter for a short calendar hearing. The claim of exemption filed  
395 by such judgment debtor shall be prima facie evidence at such hearing  
396 of the existence of the exemption.

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

417 prima facie evidence at such hearing that the funds in the account are  
418 exempt funds. The burden of proof shall be upon the judgment  
419 creditor to establish the amount of funds which are not exempt.

420 (g) If an exemption claim is made pursuant to subsection (e) of this  
421 section, the [banking] financial institution shall continue to hold the  
422 amount removed from the judgment debtor's account for forty-five  
423 days or until a court order is received regarding disposition of the  
424 funds, whichever occurs earlier. If no such order is received within  
425 forty-five days of the date the [banking] financial institution sends a  
426 copy of the exemption claim form or notice of exemption to the clerk of  
427 the court, the [banking] financial institution shall return the funds to  
428 the judgment debtor's account.

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

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

445 (j) If both exempt and nonexempt moneys have been deposited into  
446 an account, for the purposes of determining which moneys are exempt  
447 under this section, the moneys most recently deposited as of the time  
448 the execution is served shall be deemed to be the moneys remaining in

449 the account.

450 (k) The execution, exemption claim form and clerk's notice  
451 regarding the filing of a claim of exemption shall be in such form as  
452 prescribed by the judges of the Superior Court or their designee. The  
453 exemption claim form shall be dated and include a checklist and  
454 description of the most common exemptions, instructions on the  
455 manner of claiming the exemptions and a space for the judgment  
456 debtor to certify those exemptions claimed under penalty of false  
457 statement.

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

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

481 (n) If the [banking] financial institution fails or refuses to pay over to  
482 the serving officer the amount of such debt, not exceeding the amount  
483 due on such execution, such [banking] financial institution shall be  
484 liable in an action therefor to the judgment creditor named in such  
485 execution for the amount of nonexempt moneys which the [banking]  
486 financial institution failed or refused to pay over, excluding funds of  
487 up to one thousand dollars which the [banking] financial institution in  
488 good faith allowed the judgment debtor to access pursuant to  
489 subsection (c) of this section. The amount so recovered by such  
490 judgment creditor shall be applied toward the payment of the amount  
491 due on such execution. Thereupon, the rights of the [banking] financial  
492 institution shall be subrogated to the rights of the judgment creditor. If  
493 such [banking] financial institution pays exempt moneys from the  
494 account of the judgment debtor over to the serving officer contrary to  
495 the provisions of this section, such [banking] financial institution shall  
496 be liable in an action therefor to the judgment debtor for any exempt  
497 moneys so paid and such [banking] financial institution shall refund or  
498 waive any charges or fees by the [banking] financial institution,  
499 including, but not limited to, dishonored check fees, overdraft fees or  
500 minimum balance service charges and legal process fees, which were  
501 assessed as a result of such payment of exempt moneys. Thereupon,  
502 the rights of the [banking] financial institution shall be subrogated to  
503 the rights of the judgment debtor.

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

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

513 (q) Nothing in this section shall in any way affect any rights of the

514 [banking] financial institution with respect to uncollected funds  
515 credited to the account of the judgment debtor, which rights shall be  
516 superior to those of the judgment creditor.

517 (r) For the purposes of this subsection, "exempt" shall have the same  
518 meaning as provided in subsection (c) of section 52-352a. Funds  
519 deposited in an account that has been established for the express  
520 purpose of receiving electronic direct deposits of public assistance  
521 payments from the Department of Social Services shall be exempt.

522 Sec. 14. Section 52-593a of the general statutes is repealed and the  
523 following is substituted in lieu thereof (*Effective from passage*):

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

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

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

537 When any person is taken into custody on a capias issued by order  
538 of the Superior Court, the proper officer taking the person into custody  
539 shall, without undue delay, bring such person before the court which  
540 issued the capias. If a courthouse lockup operated by the judicial  
541 branch is available at such court and is operational at the time the  
542 proper officer brings such person to the court, the proper officer shall  
543 transfer the custody of such person to a judicial marshal at the court  
544 unless such person requires medical attention or there is insufficient

545 space for such person at such lockup. If the court is not in session, the  
 546 proper officer shall, without undue delay, bring such person before the  
 547 clerk or assistant clerk of the court which issued the *capias* during the  
 548 office hours of the clerk. If the clerk's office is not open, the proper  
 549 officer shall, without undue delay, take such person to a community  
 550 correctional center within the judicial district where the *capias* was  
 551 issued or, if there is no community correctional center within such  
 552 judicial district, to the nearest community correctional center. The clerk  
 553 or assistant clerk or a person designated by the Commissioner of  
 554 Correction or the Chief Court Administrator shall order the person  
 555 taken into custody on the *capias* to enter into the condition of release  
 556 fixed by the court on the condition that such person shall appear  
 557 before the next session of the superior court which issued the *capias*.  
 558 Upon the failure of such person to enter into the condition of release  
 559 fixed by the court, the person shall be held in the correctional center  
 560 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>

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:**

Agency Affected	Fund-Type	FY 03 \$	FY 04 \$	FY 05 \$
Judicial Dept.	GF - Cost	Approximately 1,000	Approximately 20,000	Approximately 20,000
Judicial Dept.	GF - Cost	None	None	Potential
Social Services, Dept.	GF - Savings	Potential	Potential	Potential

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 04 \$	FY 05 \$
All Municipalities	Cost	Minimal	Minimal

**Explanation**

The bill increases fees for service of process on multiple persons in the same matter. This would result in an annual cost of about \$20,000 to the Judicial Department, which pays for second and subsequent service of process under certain circumstances (e.g., when indigent applicants are involved or the court directs a state marshal to serve a police department rather than notify it.)

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. 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.

House Amendment "A" specifies that the \$10 fee for second and subsequent service of process applies to notification of the Attorney General's office in dissolution and postjudgment proceedings if a party or child is receiving public assistance. The amendment thereby exempts this service from the fee increase in the bill, and reduces the Judicial Department's cost since it pays for this service.

House Amendment "B" limits a levying officer's option of using the mail to serve process or a notice of a wage execution to addresses within his appointed jurisdiction. There is no related fiscal impact.

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**OLR Bill Analysis**

sHB 6476 (as amended by House "A" and "B")\*

**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 exempt from 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 before 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.

\*House Amendment "A" specifies that the \$10 fee for second and subsequent service of process applies to notification to the attorney general's office in dissolution and postjudgment proceedings if a party or child is receiving public assistance.

\*House Amendment "B" limits a levying officer's option of using the mail to serve process or a notice of a wage execution to addresses within his appointed jurisdiction.

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 with this provision.

The bill allows the state marshal and the person for whom he is collecting money to agree 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 clerk, chief presiding officer, or other executive head of the board, commission, department, or agency or (2) 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.)

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 and specifies that the \$10 fee applies to notification to the attorney general's office in dissolution and postjudgment proceedings if a party or child is receiving public assistance. 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, if the address is within the officer's appointed jurisdiction, 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 material. 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 applies 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.

### ***Legislative History***

On May 6, the House referred the bill to the Appropriations Committee, which reported it favorably on May 12. On May 14, the House referred the bill to the Government Administration and Elections Committee, which reported it favorably on May 21.

## **COMMITTEE ACTION**

### Judiciary Committee

Joint Favorable Substitute  
Yea 38    Nay 0

### Appropriations Committee

Joint Favorable Report  
Yea 44    Nay 0

Government Administration and Elections Committee

Joint Favorable Report

Yea 17    Nay 0