



Senate

General Assembly

File No. 584

January Session, 2003

Substitute Senate Bill No. 904

Senate, April 30, 2003

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING WRITS BROUGHT TO AND ISSUED BY THE SUPREME COURT AND INDEMNIFICATION OF POLICE OFFICERS.

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

1 Section 1. Section 51-199 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Supreme Court shall have final and conclusive jurisdiction
4 of all matters brought before it according to law, and may carry into
5 execution all its judgments and decrees and institute rules of practice
6 and procedure as to matters before it.

7 (b) The following matters shall be taken directly to the Supreme
8 Court: (1) Any matter brought pursuant to the original jurisdiction of
9 the Supreme Court under section 2 of article sixteen of the
10 amendments to the Constitution; (2) an appeal in any matter where the
11 Superior Court declares invalid a state statute or a provision of the
12 state Constitution; (3) an appeal in any criminal action involving a

13 conviction for a capital felony, class A felony, or other felony,
14 including any persistent offender status, for which the maximum
15 sentence which may be imposed exceeds twenty years; (4) review of a
16 sentence of death pursuant to section 53a-46b; (5) any election or
17 primary dispute brought to the Supreme Court pursuant to section 9-
18 323 or [section] 9-325; (6) an appeal of any reprimand or censure of a
19 probate judge [.] pursuant to section 45a-65; (7) any matter regarding
20 judicial removal or suspension pursuant to section 51-51j; (8) an appeal
21 of any decision of the Judicial Review Council pursuant to section 51-
22 51r; (9) any matter brought to the Supreme Court pursuant to section
23 52-265a; (10) writs of error; [., pursuant to section 52-272;] and (11) any
24 other matter as provided by law.

25 (c) The Supreme Court may transfer to itself a cause in the Appellate
26 Court. Except for any matter brought pursuant to its original
27 jurisdiction under section 2 of article sixteen of the amendments to the
28 Constitution, the Supreme Court may transfer a cause or class of
29 causes from itself, including any cause or class of causes pending on
30 July 1, 1983, to the Appellate Court. The court to which a cause is
31 transferred has jurisdiction.

32 (d) The Supreme Court may issue all writs necessary or appropriate
33 in aid of its jurisdiction and agreeable to the usages and principles of
34 law.

35 Sec. 2. Section 51-274 of the general statutes is repealed and the
36 following is substituted in lieu thereof (*Effective from passage*):

37 All special acts or provisions thereof inconsistent with this chapter
38 and with sections 1-1a, 2-5, 2-40, 2-61, 3-84, 5-164, 5-189, 7-80, 8-12, 9-
39 63, 9-258, 9-368, 12-154, 14-141, 14-142, 18-65, 18-73, 19a-220, 21a-96, 29-
40 13, 29-362, 30-105, 30-107, 30-111, 35-22, 46b-120, 46b-133, 46b-160, 47a-
41 23, 47a-28, 47a-35, 47a-37, 49-61, 49-62, 51-6a, 51-9, 51-15, 51-27, 51-30,
42 51-33, 51-34, 51-36, 51-48, 51-49, 51-50, 51-51, 51-52, 51-59, 51-72, 51-73,
43 51-78, 51-95, 51-183b, 51-183d, 51-183f, 51-183g, 51-215a, 51-229, 51-232,
44 51-237 [.] and 51-241, [51-243(a),] subsection (a) of section 51-243 and
45 sections 51-247, 51-347, 52-45a, 52-45b, 52-46, 52-97, 52-112, 52-139, 52-

46 193, 52-194, 52-196, 52-209, 52-212, 52-215, 52-226, 52-240, 52-257, 52-
 47 258, 52-261, 52-263, 52-268, 52-270, [52-272,] 52-278i, 52-293, 52-297, 52-
 48 298, 52-324, 52-351, 52-397, 52-425, 52-427, 52-428, 52-521, 53-308, 53-
 49 328, 54-2a, 54-56f, 54-66, 54-72, 54-74, 54-82g, 54-82j, 54-82k, 54-95a, 54-
 50 96a, 54-96b, 54-97, 54-108, 54-154, 54-166 and 54-169 to 54-174,
 51 inclusive, are repealed.

52 Sec. 3. Section 53-39a of the general statutes is repealed and the
 53 following is substituted in lieu thereof (*Effective October 1, 2003*):

54 Whenever, in any prosecution of an officer of the Division of State
 55 Police within the Department of Public Safety, or a member of the
 56 Office of State Capitol Police or any person appointed under section
 57 29-18 as a special policeman for the State Capitol building and
 58 grounds, the Legislative Office Building and parking garage and
 59 related structures and facilities, and other areas under the supervision
 60 and control of the Joint Committee on Legislative Management, or a
 61 local police department for a crime allegedly committed by such officer
 62 in the course of his duty as such, the charge is dismissed or the officer
 63 found not guilty, such officer shall be indemnified by his employing
 64 governmental unit for economic loss sustained by him as a result of
 65 such prosecution, including the payment of any legal fees necessarily
 66 incurred. Such officer may bring an action in the Superior Court
 67 against such employing governmental unit to enforce the provisions of
 68 this section.

69 Sec. 4. (*Effective from passage*) Sections 52-272, 52-273, 52-275, 52-276,
 70 52-277 and 52-278 of the general statutes are repealed.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<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: None

Municipal Impact: None

Explanation

The bill specifies that a municipal police officer or other law enforcement officer may initiate a proceeding in Superior Court to require an employer to indemnify the officer for losses sustained when criminal charges are brought against the officer for offenses allegedly committed while on duty, and are dismissed, or the officer is found not guilty.

OLR Bill Analysis

sSB 904

***AN ACT CONCERNING WRITS BROUGHT TO AND ISSUED BY
THE SUPREME COURT AND INDEMNIFICATION OF POLICE
OFFICERS*****SUMMARY:**

This bill specifies that the Supreme Court may issue all writs necessary or appropriate to aid its jurisdiction. It eliminates several statutory rules about the availability and applicability of a writ of error.

The law, unchanged by the bill, authorizes Supreme Court judges to make whatever rules and orders they deem necessary for the practice and procedure of taking a writ of error. Court rules of appellate procedure adopted by the Supreme Court also govern writs of error, and the statutory provisions the bill eliminates are covered by these rules.

By law, employers must indemnify state and municipal police officers and certain other law enforcement officers for losses they sustain, including legal fees, when criminal charges brought against them for offenses allegedly committed while they were on duty were dismissed, or the officer or official was found not guilty. The bill specifies that the officer may initiate a proceeding in Superior Court against his employer to enforce this duty. Currently, municipal police officers appear to have this right, but state police officers do not.

The duty to indemnify applies to (1) state and local police officers; (2) State Capitol police officers; and (3) special policemen appointed for the State Capitol building and grounds, the Legislative Office Building and parking garage, and under the supervision of the Joint Committee of Legislative Management.

EFFECTIVE DATE: Upon passage

BACKGROUND***Writ of Error***

The writ of error allows a higher court to review and supervise actions of its lower courts. It fills procedural gaps that occasionally arise when a person affected by a lower court ruling lacks a statutory right of appeal. The writ of error is rooted in the common law and appears to reflect the Supreme Court's inherent authority (*Banks v. Thomas*, 241 Conn. 569 (1997); *Bergeron v. Mackler*, 225 Conn. 391 (1993)).

Related Cases. Although the legislature codified the right to bring a writ of error, the right exists independently of the statutory authorization (*State v. McCahill*, 261 Conn. 492 (2002)).

The state Supreme Court, has construed the statutory requirement that writs of error be filed within two weeks of the judgment or order being challenged is discretionary and not mandatory (*Banks v. Thomas*, 241 Conn. 569 (1997)).

Related Laws. Supreme Court judges may make such rules and orders as they deem necessary for the practice and procedure in taking appeals and writs of error including the giving of security by the appealing party, the stay of execution during the pending of the appeal, and the payment of costs (CGS § 52-264). The judges of the Supreme, Appellate, and Superior Courts may adopt rules and forms regulating pleading, practice, and procedure in judicial proceedings in courts in which they have a constitutional authority to make rules (CGS § 51-14).

The Appellate Court may issue all writs necessary or appropriate in aid of its jurisdiction and agreeable to the usages and principles of law (CGS section 51-197a(b)).

Related Rules. Supreme Court judges have adopted rules governing writs of error (Rules of Appellate Procedure §§ 72-1 to 72-4).

Related Case — Indemnification

The state Supreme Court recently held that CGS 53-39a does not authorize state police officers to bring an indemnification lawsuit against the state because it does not explicitly waive the state's sovereign immunity (*Martinez v. Department of Public Safety* (263 Conn. 74, April 8, 2003)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0