



Senate

General Assembly

File No. 609

January Session, 2003

Substitute Senate Bill No. 1101

Senate, May 1, 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 CONSTABLES.

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

1 Section 1. Section 54-1f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) For purposes of this section, the respective precinct or
4 jurisdiction of a state marshal or judicial marshal shall be wherever
5 such marshal is required to perform duties. Peace officers, as defined
6 in subdivision (9) of section 53a-3, in their respective precincts, shall
7 arrest, without previous complaint and warrant, any person for any
8 offense in their jurisdiction, when the person is taken or apprehended
9 in the act or on the speedy information of others, provided that no
10 constable elected pursuant to the provisions of section 9-200 shall be
11 considered a peace officer for the purposes of this subsection, unless
12 the town in which such constable holds office provides, by ordinance,
13 that constables shall be considered peace officers for the purposes of
14 this subsection.

15 (b) Members of the Division of State Police within the Department
16 of Public Safety or of any local police department, [or] any chief
17 inspector or inspector in the Division of Criminal Justice and
18 constables who are certified under the provisions of sections 7-294a to
19 7-294e, inclusive, and perform criminal law enforcement duties shall
20 arrest, without previous complaint and warrant, any person who the
21 officer has reasonable grounds to believe has committed or is
22 committing a felony.

23 (c) Members of any local police department or the Office of State
24 Capitol Police and constables and state marshals who are certified
25 under the provisions of sections 7-294a to 7-294e, inclusive, and [who]
26 perform criminal law enforcement duties, when in immediate pursuit
27 of one who may be arrested under the provisions of this section, are
28 authorized to pursue the offender outside of their respective precincts
29 into any part of the state in order to effect the arrest. Such person may
30 then be returned in the custody of such officer to the precinct in which
31 the offense was committed.

32 (d) Any person arrested pursuant to this section shall be presented
33 with reasonable promptness before proper authority.

34 Sec. 2. Section 54-33a of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective October 1, 2003*):

36 (a) As used in sections 54-33a to 54-33g, inclusive, "property"
37 includes, without limitation, documents, books, papers, films,
38 recordings and any other tangible thing.

39 (b) Upon complaint on oath by any state's attorney or assistant
40 state's attorney or by any two credible persons, to any judge of the
41 Superior Court or judge trial referee, that such state's attorney or
42 assistant state's attorney or such persons have probable cause to
43 believe that any property (1) possessed, controlled, designed or
44 intended for use or which is or has been used or which may be used as
45 the means of committing any criminal offense; or (2) which was stolen
46 or embezzled; or (3) which constitutes evidence of an offense, or that a

47 particular person participated in the commission of an offense, is
48 within or upon any place, thing or person, such judge or judge trial
49 referee, except as provided in section 54-33j, may issue a warrant
50 commanding a proper officer to enter into or upon such place or thing,
51 search the same or the person and take into such officer's custody all
52 such property named in the warrant.

53 (c) A warrant may issue only on affidavit sworn to by the
54 complainant or complainants before the judge or judge trial referee
55 and establishing the grounds for issuing the warrant, which affidavit
56 shall be part of the arrest file. If the judge or judge trial referee is
57 satisfied that grounds for the application exist or that there is probable
58 cause to believe that they exist, the judge or judge trial referee shall
59 issue a warrant identifying the property and naming or describing the
60 person, place or thing to be searched. The warrant shall be directed to
61 any police officer of a regularly organized police department or any
62 state policeman, [or to a] to any conservation officer, special
63 conservation officer or patrolman acting pursuant to section 26-6 or to
64 any constable who is certified under the provisions of sections 7-294a
65 to 7-294e, inclusive, and performs criminal law enforcement duties.
66 The warrant shall state the date and time of its issuance and the
67 grounds or probable cause for its issuance and shall command the
68 officer to search within a reasonable time the person, place or thing
69 named, for the property specified. The inadvertent failure of the
70 issuing judge or judge trial referee to state on the warrant the time of
71 its issuance shall not in and of itself invalidate the warrant.

72 Sec. 3. Section 53a-130a of the general statutes is repealed and the
73 following is substituted in lieu thereof (*Effective October 1, 2003*):

74 (a) A person is guilty of impersonation of a police officer when [he]
75 such person pretends to be a sworn member of an organized local
76 police department or the Division of State Police within the
77 Department of Public Safety or a constable who performs criminal law
78 enforcement duties, or wears or displays without authority any
79 uniform, badge or shield by which such police officer or constable is

80 lawfully distinguished, with intent to induce another person to submit
81 to such pretended official authority or otherwise to act in reliance upon
82 that pretense.

83 (b) Impersonation of a police officer is a class D felony.

84 Sec. 4. Section 9-187 of the general statutes is repealed and the
85 following is substituted in lieu thereof (*Effective October 1, 2003*):

86 (a) The terms of office of elective municipal officers, when not
87 otherwise prescribed by law, shall be for two years from the date on
88 which such terms begin as set forth in section 9-187a and until their
89 successors are elected and have qualified. When not otherwise
90 prescribed by law, the terms of those town officers appointed by the
91 board of selectmen shall expire on the termination date of the term of
92 the board of selectmen appointing such officers.

93 (b) The terms of office of elected chief executive officers, members of
94 boards of selectmen and the members of the legislative body of any
95 town, city or borough as prescribed by charter or ordinance shall be
96 two years or four years from the date or dates on which such terms
97 begin as set forth in section 9-187a, and until their successors are
98 elected and have qualified. The provisions of this subsection shall not
99 be construed to authorize an ordinance prescribing terms of office to
100 supersede the provisions of a charter concerning such terms of office.

101 (c) The term of office of any tax collector appointed pursuant to an
102 ordinance adopted under the provisions of subsection (b) of section 9-
103 189 shall be as provided in such ordinance.

104 (d) There shall be no limit on the term of office of any constable
105 appointed pursuant to subdivision (1) of section 9-185 who performs
106 criminal law enforcement duties.

107 Sec. 5. Section 7-92 of the general statutes is repealed and the
108 following is substituted in lieu thereof (*Effective October 1, 2003*):

109 The chief executive officer of any municipality may appoint such

110 number of special constables as [he] such executive officer deems
111 necessary to preserve the public peace within such municipality, who
112 may serve for unlimited terms [of not more than two years] or during
113 any public celebration or gathering or any riot or unusual excitement,
114 and such special [officers] constables shall have the authority of
115 constables of such town to serve criminal process and make arrests for
116 commission of crime. The chief executive officer may appoint special
117 constables: (1) With limited geographical jurisdiction; or (2) who are
118 appointed at the request of corporations, associations or businesses
119 and who shall: (A) Have jurisdiction only on land controlled by such
120 corporation, association or business; (B) be deemed for all purposes to
121 be agents and employees of such corporation, association or business;
122 and (C) be paid for their services by such corporation, association or
123 business.

124 Sec. 6. (NEW) (*Effective October 1, 2003*) The Division of State Police
125 within the Department of Public Safety shall provide access to The
126 Connecticut OnLine Law Enforcement Communication Teleprocessing
127 (COLLECT) System to constables who are certified under the
128 provisions of sections 7-294a to 7-294e, inclusive, of the general
129 statutes and perform criminal law enforcement duties.

130 Sec. 7. Subsection (a) of section 6-38f of the general statutes is
131 repealed and the following is substituted in lieu thereof (*Effective from*
132 *passage*):

133 (a) (1) Notwithstanding the provisions of section 6-38, the State
134 Marshal Commission shall appoint as a state marshal any eligible
135 individual who applies for such a position. For the purposes of this
136 section, "eligible individual" means (A) an individual who was a
137 deputy sheriff or special deputy sheriff of a corporation on or after
138 May 31, 1995, who had served as a deputy sheriff or special deputy
139 sheriff of a corporation for a period of not less than four years and who
140 has submitted an application to the State Marshal Commission on or
141 before July 31, 2001, provided any such eligible individual submitted
142 an initial application dated on or before June 30, 2000, or (B) an

143 individual who was a constable on or after May 31, 1995, who had
144 served as a constable for a period of not less than four years and who
145 has submitted an application to the State Marshal Commission on or
146 before August 1, 2003.

147 (2) For the purpose of showing proof that an individual has served
148 as a deputy sheriff or constable as required by this subsection,
149 information contained in the Connecticut State Register and Manual
150 shall be accepted as evidence.

151 (3) Any person authorized to apply for appointment as a state
152 marshal pursuant to this section who is determined not to be eligible
153 for such appointment by the State Marshal Commission may appeal
154 such determination to the Superior Court for the judicial district of
155 New Britain in accordance with the procedures and time periods set
156 forth in chapter 54.

157 Sec. 8. Section 52-593a of the general statutes is repealed and the
158 following is substituted in lieu thereof (*Effective from passage*):

159 (a) Except in the case of an appeal from an administrative agency
160 governed by section 4-183, a cause or right of action shall not be lost
161 because of the passage of the time limited by law within which the
162 action may be brought, if the process to be served is personally
163 delivered to [a state marshal] an officer authorized to serve the process
164 and the process is served, as provided by law, within [fifteen] thirty
165 days of the delivery.

166 (b) In any such case, the [state marshal] officer making service shall
167 endorse under oath on such [state marshal's] officer's return the date of
168 delivery of the process to such [state marshal] officer for service in
169 accordance with this section.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>

Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>from passage</i>
Sec. 8	<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:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Public Safety, Dept.	GF - Cost	Significant	Significant
State Marshal Commission	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill gives constables who perform criminal law enforcement duties the same powers and protections as police officers have, eliminates specific terms of office for appointed constables, allows certain constables to become state marshals, limits the liability of constables who serve process, and provides that a cause of action shall not be lost for failure to timely bring such action if the process was delivered to an officer and served within thirty days of such delivery.

Passage of the bill would result in cost to the Department of Public Safety in order to provide access to the Connecticut Online Law Enforcement Communication Teleprocessing (COLLECT) System for constables. For example, in the 6 towns of Montville, East Lyme, Ledyard, Southbury, New Fairfield, and Colchester, there are a total of 101 constables. There is a \$2,000 monthly cost for providing COLLECT access. The bill is unclear as to the extent to which this access would be required for constables.

The bill also requires the State Marshal Commission to appoint certain people as state marshals. There is no fiscal impact related to this provision since state marshals are independent contractors who are compensated by fees from their service of process.

OLR Bill Analysis

sSB 1101

AN ACT CONCERNING CONSTABLES**SUMMARY:**

This bill:

1. expands the arrest powers of law enforcement constables certified by the Police Officer Standards and Training Council (POST), allowing them to arrest, without warrant, anyone they have reasonable grounds to believe has committed or is committing a felony;
2. allows POST-certified law enforcement constables to serve search warrants;
3. makes impersonating a law enforcement constable a crime;
4. provides that there are no limits on the terms of appointed constables or special constables;
5. requires the state police to provide law enforcement constables with access to the Connecticut OnLine Law Enforcement Communication Teleprocessing (COLLECT) System;
6. requires the State Marshal Commission to appoint certain constables as state marshals if they apply by August 1, 2003; and
7. gives a state marshal more time to serve process before the statute of limitations precludes an action and allows other officers (including constables) to serve process under this provision.

EFFECTIVE DATE: October 1, 2003, except for the provisions on (1) state marshal applications and (2) service of process and the statute of limitations, which are effective upon passage.

WARRANTLESS ARREST POWERS

The bill expands the arrest powers of law enforcement constables if

they have been certified by POST. Currently, law enforcement constables in their precincts can arrest a person without a warrant for an offense in their jurisdiction, when the person is in the act or on the speedy information of others (elected constables do not have this power unless the town provides it by ordinance). POST-certified law enforcement constables, when in immediate pursuit, can also pursue and arrest someone outside their precincts without a warrant.

Under the bill, POST-certified law enforcement constables can also arrest someone without a warrant if they have reasonable grounds to believe the person committed or is committing a felony. Under current law, state and local police and Division of Criminal Justice inspectors have this power.

SEARCH WARRANTS

By law, a judge can issue a search warrant to enter and search a place, thing, or person and take property into custody when there is probable cause to believe that the property (1) is, has been, or may be used in a crime; (2) was stolen or embezzled; or (3) is evidence of an offense. The bill allows a law enforcement constable certified by POST to serve these warrants. Under current law, state and local police and, for certain duties, conservation officers, special conservation officers, and patrolmen can serve warrants.

IMPERSONATING A CONSTABLE

The bill makes it a class D felony for someone to pretend to be a law enforcement constable or wear or display a constable's uniform, badge, or shield without authority to induce another person to submit to the pretended official's authority or to act in reliance on that pretence. This offense is punishable by one to five years in prison, a fine of up to \$5,000, or both. The same provision and penalty currently applies to impersonating state and local police.

TERMS OF APPOINTED AND SPECIAL CONSTABLES

Towns, by ordinance, can provide for appointed constables. The bill provides that there is no limit on the terms of appointed constables who perform criminal law enforcement duties.

A town's chief executive officer can also appoint special constables for

up to two-year terms as necessary to preserve the public peace within the town. The bill allows him to appoint these special constables for unlimited terms. As under current law, they can also serve during public celebrations, gatherings, riots, or unusual excitement.

As under current law, special constables have the same authority as the town's constables to serve criminal process and make arrests. Their jurisdiction may also be a limited geographic area or the property of a corporation, association, or business. With respect to the latter, the special constables act as the business' agents and employees and are paid by them.

APPOINTMENT AS STATE MARSHAL

The bill requires the State Marshal Commission to appoint as a state marshal someone who (1) was a constable on or after May 31, 1995, (2) served as a constable for at least four years, and (3) submits an application no later than August 1, 2003. For purposes of these applications, the bill makes information contained in the Connecticut State Register and Manual evidence of service as a constable.

SERVICE OF PROCESS AND THE STATUTE OF LIMITATIONS

The bill gives state marshals 30, rather than 15, days from receiving a process to serve it without an action being precluded because the statute of limitations has passed. The bill also allows other officers (including constables) to serve process under this provision. As for state marshals under current law, the officer must endorse the return of service with the date the process was delivered to him.

Neither current law nor the bill apply to appeals from agency decisions under the Uniform Administrative Procedure Act.

BACKGROUND

Police Officer Standards and Training Council (POST)

POST is responsible for training and certifying police officers, defined as municipal police, appointed constables who perform criminal law enforcement duties, certain special policemen, and members of any law enforcement unit who perform police duties. The law exempts

from its scope, state police officers, municipal animal control officers, and fire police, among others.

Among other things, the council is responsible for (1) establishing uniform minimum educational and training standards for employment as a police officer, (2) requiring that police officers complete required training in order to maintain certification; (3) certifying and recertifying police officers who meet standards; and (4) setting minimum qualifications for law enforcement instructors.

Connecticut On Line Law Enforcement Communication Teleprocessing (COLLECT) System

COLLECT is a computerized database maintained by the Department of Public Safety. Police use it to check on such things as outstanding arrest warrants.

Related Bill

sHB 6476 also contains a provision increasing, from 15 to 30 days, the time that a state marshal has from when he receives a process to serve it without an action being precluded because the statute of limitations has passed.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 41 Nay 0