



House of Representatives

General Assembly

File No. 495

February Session, 2004

Substitute House Bill No. 5620

House of Representatives, April 6, 2004

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 THE ATTORNEY ASSISTANCE PROGRAM.

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

1 Section 1. Section 4-141 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 As used in this chapter: "Claim" means a petition for the payment or
4 refund of money by the state or for permission to sue the state; "just
5 claim" means a claim which in equity and justice the state should pay,
6 provided the state has caused damage or injury or has received a
7 benefit; "person" means any individual, firm, partnership, corporation,
8 limited liability company, association or other group, including
9 political subdivisions of the state; "state agency" includes every
10 department, division, board, office, commission, arm, agency and
11 institution of the state government, whatever its title or function; []
12 and "state officers and employees" includes every person elected or
13 appointed to or employed in any office, position or post in the state
14 government, whatever such person's title, classification or function

15 and whether such person serves with or without remuneration or
16 compensation, including judges of probate courts and employees of
17 such courts. In addition to the foregoing, "state officers and employees"
18 includes attorneys appointed as victim compensation commissioners,
19 attorneys appointed by the Public [Defenders] Defender Services
20 Commission as public defenders, assistant public defenders or deputy
21 assistant public defenders [,] and attorneys appointed by the court as
22 special assistant public defenders, the Attorney General, the Deputy
23 Attorney General and any associate attorney general or assistant
24 attorney general, any other attorneys employed by any state agency,
25 any commissioner of the Superior Court hearing small claims matters
26 or acting as a fact-finder, arbitrator or magistrate or acting in any other
27 quasi-judicial position, any person appointed to a committee
28 established by law for the purpose of rendering services to the Judicial
29 Department, including, but not limited to, the Legal Specialization
30 Screening Committee, the State-Wide Grievance Committee, the Client
31 Security Fund Committee, the advisory committee appointed pursuant
32 to section 51-81d, as amended by this act, and the State Bar Examining
33 Committee, any member of a multidisciplinary team established by the
34 Commissioner of Children and Families pursuant to section 17a-106a,
35 and any physicians or psychologists employed by any state agency.
36 "State officers and employees" shall not include any medical or dental
37 intern, resident or fellow of The University of Connecticut when (1) the
38 intern, resident or fellow is assigned to a hospital affiliated with the
39 university through an integrated residency program, and (2) such
40 hospital provides protection against professional liability claims in an
41 amount and manner equivalent to that provided by the hospital to its
42 full-time physician employees.

43 Sec. 2. Section 4-165 of the general statutes is repealed and the
44 following is substituted in lieu thereof (*Effective October 1, 2004*):

45 No state officer or employee shall be personally liable for damage or
46 injury, not wanton, reckless or malicious, caused in the discharge of his
47 duties or within the scope of his employment. Any person having a
48 complaint for such damage or injury shall present it as a claim against

49 the state under the provisions of this chapter. For the purposes of this
50 section, "scope of employment" shall include, but not be limited to,
51 representation by an attorney appointed by the Public Defender
52 Services Commission as a public defender, assistant public defender or
53 deputy assistant public defender or an attorney appointed by the court
54 as a special assistant public defender of an indigent accused or of a
55 child on a petition of delinquency, representation by such other
56 attorneys, referred to in section 4-141, as amended by this act, of state
57 officers and employees[,] in actions brought against such officers and
58 employees in their official and individual capacities, the discharge of
59 duties as a trustee of the state employees retirement system, the
60 discharge of duties of a commissioner of the Superior Court hearing
61 small claims matters or acting as a fact-finder, arbitrator or magistrate
62 or acting in any other quasi-judicial position, and the discharge of
63 duties of a person appointed to a committee established by law for the
64 purpose of rendering services to the Judicial Department, including,
65 but not limited to, the Legal Specialization Screening Committee, the
66 State-Wide Grievance Committee, the Client Security Fund Committee,
67 the advisory committee appointed pursuant to section 51-81d, as
68 amended by this act, and the State Bar Examining Committee;
69 provided such actions arise out of the discharge of the duties or within
70 the scope of employment of such officers or employees. For the
71 purposes of this section, members or employees of the soil and water
72 district boards established pursuant to section 22a-315 shall be
73 considered state employees.

74 Sec. 3. Section 51-81d of the general statutes, as amended by section
75 176 of public act 03-6 of the June 30 special session, is repealed and the
76 following is substituted in lieu thereof (*Effective October 1, 2004*):

77 (a) The Superior Court, in accordance with rules established by the
78 judges of the Superior Court, may (1) establish a Client Security Fund
79 to (A) reimburse claims for losses caused by the dishonest conduct of
80 attorneys admitted to the practice of law in this state and incurred in
81 the course of an attorney-client relationship, and (B) provide for crisis
82 intervention and referral assistance to attorneys admitted to the

83 practice of law in this state who suffer from alcohol or other substance
84 abuse problems or gambling problems, or who have behavioral health
85 problems, and (2) assess any person admitted as an attorney by the
86 Superior Court, in accordance with section 51-80, an annual fee to be
87 deposited in [said] the Client Security Fund. Such crisis intervention
88 and referral assistance (i) shall be provided with the assistance of an
89 advisory committee, to be appointed by the Chief Court
90 Administrator, that includes one or more behavioral health
91 professionals, and (ii) shall not be deemed to constitute the practice of
92 medicine or mental health care.

93 (b) The Commissioner of Revenue Services, or the commissioner's
94 designee, shall collect any fee established pursuant to subsection (a) of
95 this section, record such payments with the State Comptroller and
96 deposit such payments promptly with the State Treasurer, who shall
97 credit such payments to the Client Security Fund. The State Treasurer
98 shall maintain the Client Security Fund separate and apart from all
99 other moneys, funds and accounts and shall credit any interest earned
100 from the Client Security Fund to the fund. Any interest earned from
101 the fund shall be credited to the fund.

102 (c) The Client Security Fund shall be used to satisfy the claims
103 approved in accordance with procedures established pursuant to rules
104 of the Superior Court, to provide funding for crisis intervention and
105 referral assistance provided pursuant to [subparagraph (B) of
106 subdivision (1) of subsection (a) of] this section and to pay the
107 reasonable costs of administration of the fund.

108 (d) No such fee shall be assessed to any attorney described in
109 subsection (g) of section 51-81b, except that any attorney who does not
110 engage in the practice of law as an occupation and receives less than
111 four hundred fifty dollars in legal fees or other compensation for
112 services involving the practice of law during the calendar year shall be
113 obligated to pay one-half of such fee.

114 (e) The Commissioner of Revenue Services shall notify the Chief
115 Court Administrator or his designee of the failure of any person to pay

116 any fee assessed in accordance with subsection (a) of this section.

117 (f) All information given or received in connection with crisis
 118 intervention and referral assistance provided pursuant to this section,
 119 including the identity of any attorney seeking or receiving such crisis
 120 intervention and referral assistance, shall be confidential and shall not
 121 be disclosed to any third person other than a person to whom
 122 disclosure is reasonably necessary for the accomplishment of the
 123 purposes of such crisis intervention and referral assistance, and shall
 124 not be disclosed in any civil or criminal case or proceeding or in any
 125 legal or administrative proceeding, unless the attorney seeking or
 126 obtaining such crisis intervention and referral assistance waives such
 127 privilege or unless disclosure is otherwise required by law. Except as
 128 otherwise provided in this subsection, no attorney who provides crisis
 129 intervention and referral assistance pursuant to this section shall
 130 disclose any information given or received in connection with such
 131 crisis intervention and referral assistance unless such disclosure is
 132 required by the rules governing communications between attorney
 133 and client. Unless the privilege under this subsection has been waived
 134 or unless disclosure is otherwise required by law, no person in any
 135 civil or criminal case or proceeding or in any legal or administrative
 136 proceeding may request or require any information given or received
 137 in connection with the crisis intervention and referral assistance
 138 provided pursuant to this section.

139 Sec. 4. (NEW) (*Effective October 1, 2004*) No attorney appointed by
 140 the court pursuant to rules of the Superior Court to inventory the files
 141 of an inactive, suspended, disbarred or resigned attorney and to take
 142 necessary action to protect the interests of the inactive, suspended,
 143 disbarred or resigned attorney's clients shall be liable for damage or
 144 injury, not wanton, reckless or malicious, caused in the discharge of
 145 the appointed attorney's duties in connection with such inventory and
 146 action.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>

Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</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 makes various changes that have no fiscal impact.

OLR Bill Analysis

sHB 5620

AN ACT CONCERNING THE ATTORNEY ASSISTANCE PROGRAM

SUMMARY:

This bill immunizes the following two classes of people from liability for damages or injuries caused in the discharge of their duties unless they acted wantonly, recklessly, or maliciously: (1) people appointed to the advisory committee that assists in the crisis intervention program for attorneys who suffer from alcohol or other substance abuse problems and (2) attorneys appointed by the court pursuant to Superior Court rules to inventory the files of an inactive, suspended, disbarred, or resigned attorney and to take necessary action to protect the interests of his clients. The bill requires anyone allegedly harmed by an advisory committee member's negligence to bring his claim to the claims commissioner.

The bill makes confidential all information given or received in connection with crisis intervention and referral assistance, including the identity of any attorney seeking or receiving such intervention and assistance. It prohibits disclosure except where reasonably necessary to accomplish the purposes of the intervention and assistance. The bill also prohibits disclosure in any civil or criminal case or proceeding or in any legal or administrative proceeding, unless the attorney who sought or obtained the assistance waives the privilege, or the law otherwise requires disclosure.

The bill prohibits attorneys who provide crisis intervention and referral assistance from disclosing any information given or received unless disclosure is required by the rules governing communications between attorney and client. Unless the privilege has been waived or disclosure is otherwise required by law, the bill prohibits anyone in any civil or criminal case or proceeding, or in any legal or administrative proceeding, from requesting or requiring any information given or received in connection with the crisis intervention and referral assistance.

EFFECTIVE DATE: October 1, 2004

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0