



General Assembly

February Session, 2004

Raised Bill No. 5620

LCO No. 2081

02081_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING THE ATTORNEY ASSISTANCE PROGRAM
AND COMMITTEES OF SALE.**

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 Section 4-141 of the general statutes is repealed and the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 by the court to make a
28 sale pursuant to section 49-25, any person appointed to a committee
29 established by law for the purpose of rendering services to the Judicial
30 Department, including, but not limited to, the Legal Specialization
31 Screening Committee, the State-Wide Grievance Committee, the Client
32 Security Fund Committee, the advisory committee appointed pursuant
33 to section 51-81d, as amended by this act, and the State Bar Examining
34 Committee, any member of a multidisciplinary team established by the
35 Commissioner of Children and Families pursuant to section 17a-106a,
36 and any physicians or psychologists employed by any state agency.
37 "State officers and employees" shall not include any medical or dental
38 intern, resident or fellow of The University of Connecticut when (1) the
39 intern, resident or fellow is assigned to a hospital affiliated with the
40 university through an integrated residency program, and (2) such
41 hospital provides protection against professional liability claims in an
42 amount and manner equivalent to that provided by the hospital to its
43 full-time physician employees.

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 Section 4-165 of the general statutes is repealed and the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

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

50 the state under the provisions of this chapter. For the purposes of this
51 section, "scope of employment" shall include, but not be limited to,
52 representation by an attorney appointed by the Public Defender
53 Services Commission as a public defender, assistant public defender or
54 deputy assistant public defender or an attorney appointed by the court
55 as a special assistant public defender of an indigent accused or of a
56 child on a petition of delinquency, representation by such other
57 attorneys, referred to in section 4-141, as amended by this act, of state
58 officers and employees, in actions brought against such officers and
59 employees in their official and individual capacities, the discharge of
60 duties as a trustee of the state employees retirement system, the
61 discharge of duties of a commissioner of the Superior Court hearing
62 small claims matters or acting as a fact-finder, arbitrator or magistrate
63 or acting in any other quasi-judicial position, the discharge of duties of
64 a person appointed by the court to make a sale pursuant to section 49-
65 25 and the discharge of duties of a person appointed to a committee
66 established by law for the purpose of rendering services to the Judicial
67 Department, including, but not limited to, the Legal Specialization
68 Screening Committee, the State-Wide Grievance Committee, the Client
69 Security Fund Committee, the advisory committee appointed pursuant
70 to section 51-81d, as amended by this act, and the State Bar Examining
71 Committee; provided such actions arise out of the discharge of the
72 duties or within the scope of employment of such officers or
73 employees. For the purposes of this section, members or employees of
74 the soil and water district boards established pursuant to section
75 22a-315 shall be considered state employees.

76 Sec. 3. Section 51-81d of the general statutes, as amended by section
77 176 of public act 03-6 of the June 30 special session, is repealed and the
78 following is substituted in lieu thereof (*Effective October 1, 2004*):

79 (a) The Superior Court, in accordance with rules established by the
80 judges of the Superior Court, may (1) establish a Client Security Fund
81 to (A) reimburse claims for losses caused by the dishonest conduct of
82 attorneys admitted to the practice of law in this state and incurred in

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

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

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

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

115 obligated to pay one-half of such fee.

116 (e) The Commissioner of Revenue Services shall notify the Chief
117 Court Administrator or his designee of the failure of any person to pay
118 any fee assessed in accordance with subsection (a) of this section.

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

141 (g) No person or entity providing crisis intervention and referral
142 assistance pursuant to this section shall be liable for damage or injury,
143 not wanton, reckless or malicious, caused in the discharge of such
144 person's or entity's duties in connection with such crisis intervention
145 and referral assistance.

146 Sec. 4. (NEW) (*Effective October 1, 2004*) No attorney appointed by

147 the court pursuant to rules of the Superior Court to inventory the files
148 of an inactive, suspended, disbarred or resigned attorney and to take
149 necessary action to protect the interests of the inactive, suspended,
150 disbarred or resigned attorney's clients shall be liable for damage or
151 injury, not wanton, reckless or malicious, caused in the discharge of
152 the appointed attorney's duties in connection with such inventory and
153 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>

Statement of Purpose:

To classify persons appointed by the court as a committee of sale in a foreclosure action as state officers or employees so that such persons may be represented by the Office of the Attorney General if sued for actions taken pursuant to such appointment, to provide immunity from personal liability to members of the advisory committee for the attorney assistance program, to ensure that providers of crisis intervention and referral assistance under the attorney assistance program and attorneys appointed to oversee the matters of inactive, suspended, disbarred or resigned attorneys cannot be sued for assisting other attorneys unless their actions are wilful, wanton or reckless, and to make information given and received in connection with crisis intervention and referral assistance provided under the attorney assistance program confidential in most situations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]