



House of Representatives

General Assembly

File No. 628

January Session, 2005

Substitute House Bill No. 6809

House of Representatives, May 2, 2005

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 SERVICE OF CAPIAS AND WARRANTS BY STATE MARSHALS AND FEES AND EXPENSES RELATING TO THE EXECUTION OF TAX WARRANTS.

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

1 Section 1. Section 6-38a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For the purposes of the general statutes, "state marshal" means a
4 qualified deputy sheriff incumbent on June 30, 2000, under section 6-38
5 or appointed pursuant to section 6-38b who shall have authority to
6 provide legal execution and service of process in the counties in this
7 state pursuant to section 6-38 as an independent contractor
8 compensated on a fee for service basis, determined, subject to any
9 minimum rate promulgated by the state, by agreement with an
10 attorney, court or public agency requiring execution or service of
11 process.

12 (b) Any state marshal [,] shall, in the performance of execution or

13 service of process functions, have the right of entry on private property
14 and no such person shall be personally liable for damage or injury, not
15 wanton, reckless or malicious, caused by the discharge of such
16 functions.

17 (c) Any state marshal shall, in the execution or service of any capias
18 issued pursuant to section 52-143 or 54-2a or any warrant or capias
19 mittimus issued by a court or family support magistrate in a family
20 support matter, have all the powers conferred on state policemen that
21 are granted to special policemen in the Bureau of Child Support
22 Enforcement pursuant to section 29-1g.

23 Sec. 2. Section 52-56 of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective from passage*):

25 (a) If any officer has commenced the service of any civil process
26 within his precinct, he may attach the property of, or serve the process
27 upon, any defendant named in the process outside of his precinct. An
28 officer shall not be deemed to have commenced service in any civil
29 action by process of foreign attachment or garnishment by service on
30 the garnishee therein, unless the garnishee has concealed in his
31 possession, at the time of the service, the property of the defendant or
32 is indebted to him.

33 (b) If there are two or more defendants, any of whom reside outside
34 of the precinct of the officer commencing service or, in any action in
35 case of attachment of property or in case of foreign attachment or
36 garnishment, if any defendant or garnishee resides outside of the
37 precinct of the officer commencing service, any officer may serve the
38 process upon such of the defendants or garnishees as reside within his
39 precinct, and may then (1) complete the service himself upon any
40 defendant or garnishee residing outside his precinct, or (2) deliver the
41 process to an officer of another precinct for service upon any
42 defendant or garnishee residing in the other precinct and each officer
43 serving the same shall endorse his actions thereon. The officer
44 completing the service shall include in his endorsement a copy of the
45 endorsement upon the writ of the officer commencing service and shall

46 return the process to court.

47 (c) In any action where process is permitted to be served upon the
48 Secretary of the State or the Commissioner of Motor Vehicles pursuant
49 to sections 52-57, 52-59b, 52-62 and 52-63, service of such process may
50 be made by any officer of any precinct having such process in his
51 hands for service.

52 (d) The execution or service of any capias issued pursuant to section
53 52-143 or 54-2a or any warrant or capias mittimus issued by a court or
54 family support magistrate in a family support matter may be made in
55 any precinct in the state by any officer of any precinct having such
56 capias, warrant or capias mittimus in his hands for service.

57 Sec. 3. Section 12-162 of the general statutes is repealed and the
58 following is substituted in lieu thereof (*Effective from passage and*
59 *applicable to the execution of tax warrants issued on or after July 2, 2003*):

60 (a) Any collector of taxes, in the execution of tax warrants, shall
61 have the same authority as state marshals have in executing the duties
62 of their office, and any constable or other officer authorized to serve
63 any civil process may serve a warrant for the collection of any tax
64 assessed, and the officer shall have the same authority as the collector
65 concerning taxes committed to such officer for collection.

66 (b) Upon the nonpayment of any property tax when due, demand
67 having been made therefor as prescribed by law for the collection of
68 such tax, an alias tax warrant may be issued by the tax collector, which
69 may be in the following form:

70 "To a state marshal of the County of, or any constable of the
71 Town of Greeting: By authority of the state of Connecticut you are
72 hereby commanded to collect forthwith from of the sum of
73 dollars, the same being the amount of a tax with interest or penalty
74 and charges which have accumulated thereon, which tax was levied by
75 (insert name of town, city or municipality laying the tax) upon (insert
76 the real estate, personal property, or both, as the case may be,) of said

77 as of the day of (In like manner insert the amount of any other
78 property tax which may have been levied in any other year, including
79 interest or penalty and charges which have accumulated thereon). In
80 default of payment of said amount you are hereby commanded to levy
81 for said tax or taxes, including interest, penalty and charges,
82 hereinafter referred to as the amount due on such execution, upon any
83 goods and chattels of such person and dispose of the same as the law
84 directs, notwithstanding the provisions of subsection (j) of section 52-
85 352b, and, after having satisfied the amount due on such execution,
86 return the surplus, if any, to him; or you are to levy upon the real
87 estate of such person and sell such real property pursuant to the
88 provisions of section 12-157, to pay the amount due on such execution;
89 or you shall make demand upon the main office of any banking
90 institution indebted to such person, subject to the provisions of section
91 52-367a or 52-367b, as if judgment for the amount due on such
92 execution had been entered, for that portion of any type of deposit to
93 the credit of or property held for such person, not exceeding in total
94 value the amount due on such execution; or you are to garnishee the
95 wages due such person from any employer, in the same manner as if a
96 wage execution therefor had been entered, in accordance with section
97 52-361a.

98 Dated at this day of A.D. 20., Tax Collector."

99 (c) Any officer serving [such] an alias tax warrant pursuant to this
100 section shall make return to the collector of such officer's actions
101 thereon within ten days of the completion of such service and shall be
102 entitled to collect from such person the fees allowed by law for serving
103 executions issued by any court. [Notwithstanding the provisions of
104 section 52-261, any] Any state marshal or constable, authorized as
105 provided in this section, who executes such warrant and collects any
106 delinquent municipal taxes as a result thereof shall receive, in addition
107 to expenses otherwise allowed, [an amount equal to ten per cent] a
108 percentage of the taxes collected pursuant to such warrant, calculated
109 at the rate applicable for the levy of an execution as provided in section
110 52-261. The minimum fee for such service shall be [twenty] thirty

111 dollars. Any officer unable to serve such warrant shall, within sixty
112 days after the date of issuance, return such warrant to the collector and
113 in writing state the reason it was not served.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	6-38a
Sec. 2	<i>from passage</i>	52-56
Sec. 3	<i>from passage and applicable to the execution of tax warrants issued on or after July 2, 2003</i>	12-162

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-Effect	FY 06 \$	FY 07 \$
Social Services, Dept.	GF - Savings	Potential Significant	Potential Significant

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 06 \$	FY 07 \$
All Municipalities	None	None	None

Explanation

Sections 1 and 2 could enhance the service of capias by state marshals and thereby result in state savings for child support. Currently there is a backlog of 4,200 outstanding capias warrants, with amounts owed ranging from \$100 to \$100,000. On average, about twenty per cent of child support collections flow in to the General Fund in the form of reimbursement for state assistance.

Section 3 conforms statute to current practice with respect to the execution of tax warrants; consequently, there is no fiscal impact.

OLR Bill Analysis

sHB 6809

AN ACT CONCERNING THE SERVICE OF CAPIAS AND WARRANTS BY STATE MARSHALS AND FEES AND EXPENSES RELATING TO THE EXECUTION OF TAX WARRANTS**SUMMARY:**

This bill allows any officer to serve the following anywhere in the state: (1) capias (a court order to take a person into custody) to arrest a witness who does not appear as required by a subpoena, (2) capias for a witness or defendant who violates a court order regarding a court appearance, or (3) warrant or capias issued by a court or family support magistrate in a family support matter. Under current law, with some exceptions, state marshals can execute process in their county and constables can do so in their town.

The bill gives state marshals the powers conferred on state police when they are serving a capias or warrant listed above.

The bill increases, from 10% to 15%, the share of the taxes collected a state marshal or constable receives when executing an alias tax warrant and collecting delinquent municipal taxes, in addition to allowable expenses. It also increases the minimum fee for serving tax warrants from \$20 to \$30. These fees are the same fees for levying an execution.

EFFECTIVE DATE: Upon passage. The provision on tax warrants applies to those issued beginning July 2, 2003.

BACKGROUND***Police Powers***

Under current law, state marshals may exercise limited police or law enforcement powers while acting pursuant to their authority. A state marshal is a peace officer only while exercising his statutory authority. State police are peace officers at all times (CGS § 53a-3(9)). Peace officer status includes the power to make arrests and to use physical or deadly force in certain circumstances.

Under current law, a state marshal's precinct or jurisdiction for purposes of arrest powers is wherever he is required to perform his duties. Peace officers in their precincts can, without a warrant, arrest a person for an offense in their jurisdiction on the information of others or when the person is caught in the act. A state police officer can, without warrant, arrest any person he reasonably believes has committed a felony (CGS § 54-1f).

State police officers in any part of the state have the same powers in criminal matters and law enforcement as the police have in their jurisdiction (CGS § 29-7).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 40 Nay 0