

CONNECTICUT STATE MARSHAL'S ORGANIZATION, INC.

TESTIMONY IN SUPPORT OF SB 155

February 24, 2006

My name is Carl Sporkmann. I am a Connecticut State Marshal and the president of the Connecticut State Marshal's Organization, Inc., based in Fairfield County. Membership in our organization is open to all men and women currently serving as State Marshals, or as Constables in their respective cities and towns. I am here today to testify in favor of SB 155. Our State Marshal group supports this bill as drafted and believes passage is in the best interests of the state.

Senate Bill 155 seeks to accomplish several goals to make the service of process in our state more efficient and more economical for all litigants and their attorney's...and in addition, strives to standardize the methods of service across state agencies. I would like to comment on the specifics included in this bill.

First: State Marshals are from time to time appointed caretakers of the estate of a deceased. It is not frequent, but neither is it a rare occurrence. While compensation for most every other form of Marshal's function is to be found somewhere in statute, compensation for the caretaker function is not covered. The proposed change in section 45a-316 seeks to provide a basis for compensation to a State Marshal when engaged for the purpose of performing such caretaker duties. It also gives authority to the Probate Court to determine the formula for, and the amount of compensation.

Second: The changes to Statute 52-57(b), which add the words "assistant town clerks", seek only to achieve consistency throughout that statute. If an assistant town clerk may be served in one instance, there appears no sound reason to exclude the assistant clerk from another instance in the same statute.

Third: The proposed legislation seeks to allow for service of process by certified mail (return-receipt) on any and all state agencies. Again, consistency / standardization of practice is the goal. Currently, all services on the Attorney General, and several on the Secretary of State can be made by mail. By contrast, service on the Commissioner of Motor Vehicles must be made by personally depositing an envelope in a drop box at one or another specified location. As another example, Service on the Insurance Commissioner can only be made in person in Hartford. We believe there is no practical reason to require a State Marshal to drive hundreds of miles a year (all of which is a chargeable cost to the plaintiff/applicant in litigation), to achieve a service that is not personal in nature, when that service can be achieved by using certified mail (w/return-receipt). Further, State Marshals would, albeit in a small way, make their own contribution toward unclogging the highways of the state and conserving costly fuel.

Fourth: We propose a change to statute that mirrors a change made in 2003. In that year, legislation was passed that permits a State Marshal to serve a Subpoena directed to a Physician, by serving either an office agent designated by the doctor, or the person in charge in the doctor's office. Rationale was that physicians were too often tied up with patients, in surgery, in conference, out of town, etc., and otherwise too busy to accept Subpoenas personally. Service of a Subpoena on an attorney presents similar circumstances. Too often, the attorney is "in" with a client, out to a conference, in court, consulting with another lawyer, etc. As with physicians, State Marshals propose this legislation to provide the same latitude in serving an agent designated by the named attorney, or the person in charge of the office, whether that is a partner, a legal assistant or the receptionist, in the attorney's office.

Fifth: We believe statute should be modified to require that financial institutions deduct the statutory processing fee (CGS 52-367b) of \$8.00 from the proceeds of a bank execution, prior to sending seized funds to the State Marshal...instead of the current method of requiring the State Marshal to advance the \$8.00 fee at the time of service. In years gone by, Federal Code did not prohibit the identification of a depositor by the bank. Today, State Marshals do not know when making service of a Financial Institution Execution whether the named debtor is a depositor of the bank. As a result, the \$8.00 processing fee is advanced virtually every time a State Marshal serves such an execution. When it is later determined (all too frequently) that the debtor is not a depositor of that particular institution, there are three possible dispositions of that \$8.00 fee: it can be returned in the same way it was advanced, i.e, the State Marshal's check is returned (which most times it is); or, the fee can be returned in the form of a bank check, which then creates an accounting issue for the State Marshal; or, it can be kept by the bank (which it too often is), even though statute does not provide for earning the fee unless funds are processed. We believe the proposed modification does away with the 'issues' surrounding the \$8.00 fee, all while preserving it.

Further, and again in a vein of consistency / standardization of practice, we propose that service of a Financial Institution Execution should be permitted on any bank at any branch of that bank anywhere in a State Marshal's precinct. Most state and national banks already allow this procedure. Only a few banks continue to require service at only one branch in each county in which the bank operates.

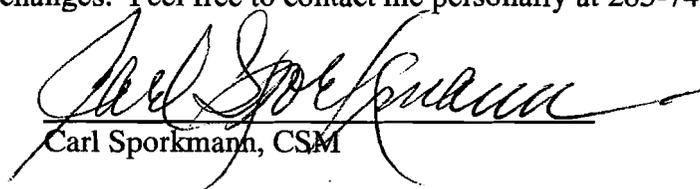
Sixth, we propose a technical change to replace the term sheriff with state marshal in CGS 52-583.

Seventh, in the course of performing their duties, State Marshals are often asked to determine the location of individuals for the purpose of making legal service. In many instances, the only available means of determining an address for a defendant is the DMV database of driver's licenses and vehicle registrations. Currently, State Marshals are assisted in this effort by DMV only by telephone, only during normal business hours, and only when not assisting Connecticut State Troopers. This means that service of any kind is frequently unavailable to a State Marshal and legal service fails accordingly. Despite years of effort by State Marshals to obtain some form of access to the database, none is yet available. We believe the proposed legislation is 'enabling' only. We do not seek to set the means or the manner by which State Marshals gain access to the database. We do seek the authority for the State Marshal Commission to develop a system in conjunction with DMV that allows State Marshal entry to the database...hopefully on a 24/7 basis. State Marshals are sworn civil peace officers with the same ethical and legal requirements regarding the protection of privacy as any state official. We find no reason to be denied the use of a critical State resource that helps and allows us to accomplish our duties on a timely basis.

Eight: This last section of proposed legislation is again thought to be enabling in nature, providing direction and authority to the Chief Court Administrator to establish in conjunction with the State Marshal Commission (Chairman), a procedure for the use of the telephone (and/or other electronic means) to notify a State Marshal of the need for the service of a Restraining Order, or other emergency process. The current procedure is rife with issues and makes attendance at the Courthouse mandatory whether or not restraining order service is required. State Marshals reporting to many of the State's Courthouses travel many miles consuming valuable time getting to and from that Courthouse, only to stand around for an unproductive half hour to end up serving nothing. We propose an "on call" procedure, believing it is more efficient and more equitable than the current "mandatory attendance" procedure.

I appreciate the opportunity to provide these insights and I would be happy to answer any questions regarding our support of these legislative changes. Feel free to contact me personally at 203-746-2897.

Respectfully submitted,


Carl Sporkmann, CSM