



General Assembly

January Session, 2011

Raised Bill No. 6605

LCO No. 4633

04633_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT REQUIRING ATTORNEYS TO MAINTAIN PROFESSIONAL LIABILITY INSURANCE.

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

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) Except as provided in
2 subsection (c) of this section, each person admitted as an attorney by
3 the Superior Court, in accordance with section 51-80 of the general
4 statutes, shall maintain professional liability insurance or other
5 indemnity against liability for professional malpractice. The amount of
6 insurance that each such person shall carry as insurance or indemnity
7 against claims for professional malpractice shall not be less than one
8 million dollars for one person, per occurrence, with an aggregate of not
9 less than three million dollars.

10 (b) Not later than March 1, 2012, and annually thereafter, each
11 insurance company that issues professional liability insurance policies
12 described in subdivision (3) of subsection (b) of section 38a-393 of the
13 general statutes shall render to the State-Wide Grievance Committee
14 established in section 51-90 of the general statutes a true record of the
15 names and addresses, according to classification, of cancellations of
16 and refusals to renew professional liability insurance policies and the

17 reasons for such cancellation or refusal to renew such policies for the
18 prior calendar year.

19 (c) Any person who is subject to the provisions of subsection (a) of
20 this section shall be deemed in compliance with said subsection (a) if
21 such person (1) provides legal services to a single client who has
22 knowingly waived the requirements of said subsection (a) in writing,
23 or (2) is exempt from the requirement to pay occupational tax under
24 subsection (g) of section 51-81b of the general statutes, or is not liable
25 for the payment of occupational tax under subsection (h) of section 51-
26 81b of the general statutes.

27 (d) The State-Wide Grievance Committee shall notify the Chief
28 Court Administrator of the violation of this section by any person. If
29 such violation continues for more than thirty days, such person's
30 admission as an attorney shall be administratively suspended in
31 accordance with rules which the judges of the Superior Court shall
32 establish. Such person's admission as an attorney shall remain
33 administratively suspended until such time as the person submits
34 proof that such person has obtained professional liability insurance in
35 accordance with this section. If, prior to such administrative
36 suspension, a person who is in violation of this section submits proof
37 to the State-Wide Grievance Committee and the Chief Court
38 Administrator that such person has applied for assistance pursuant to
39 section 51-81d of the general statutes, as amended by this act, any
40 administrative suspension proceeding against such person shall be
41 tolled during the pendency of such application for assistance.

42 Sec. 2. Section 51-81d of the general statutes is repealed and the
43 following is substituted in lieu thereof (*Effective October 1, 2011*):

44 (a) The Superior Court, in accordance with rules established by the
45 judges of the Superior Court, may (1) establish a Client Security Fund
46 to (A) reimburse claims for losses caused by the dishonest conduct of
47 attorneys admitted to the practice of law in this state and incurred in
48 the course of an attorney-client relationship, [and] (B) provide for crisis

49 intervention and referral assistance to attorneys admitted to the
50 practice of law in this state who suffer from alcohol or other substance
51 abuse problems or gambling problems, or who have behavioral health
52 problems, and (C) provide for loans upon application by an attorney
53 and a showing of a need to pay for professional liability insurance
54 required under section 1 of this act, and (2) assess any person admitted
55 as an attorney by the Superior Court, in accordance with section 51-80,
56 an annual fee to be deposited in the Client Security Fund. Such crisis
57 intervention and referral assistance [(i)] (A) shall be provided with the
58 assistance of an advisory committee, to be appointed by the Chief
59 Court Administrator, that includes one or more behavioral health
60 professionals, and [(ii)] (B) shall not be deemed to constitute the
61 practice of medicine or mental health care. The judges of the Superior
62 Court shall establish rules to prescribe the application form and criteria
63 for granting loan applications under subparagraph (C) of subdivision
64 (1) of this subsection.

65 (b) All fees assessed pursuant to subsection (a) of this section and
66 collected by the Superior Court in accordance with rules established by
67 the judges of the Superior Court may be recorded with the State
68 Comptroller and deposited with the State Treasurer, who shall credit
69 such payments to the Client Security Fund. The State Treasurer shall
70 maintain the Client Security Fund separate and apart from all other
71 moneys, funds and accounts and shall credit any interest earned from
72 the Client Security Fund to the fund. The Client Security Fund shall be
73 maintained by the State Treasurer in trust for the sole and exclusive
74 purposes and uses designated in this section. The moneys in the Client
75 Security Fund are not tax revenues and may not be transferred or
76 credited to the General Fund or any other fund or account except as
77 expressly directed by the committee established to administer the fund
78 and in accordance with rules established by the judges of the Superior
79 Court.

80 (c) The Client Security Fund shall be used to satisfy the claims
81 approved in accordance with procedures established pursuant to rules

82 of the Superior Court, to provide funding for crisis intervention and
83 referral assistance provided pursuant to this section, to provide loans
84 to attorneys for professional liability insurance pursuant to rules of the
85 Superior Court and to pay the reasonable costs of administration of the
86 fund.

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

93 (e) The Commissioner of Revenue Services shall notify the Chief
94 Court Administrator or [his] the commissioner's designee of the failure
95 of any person to pay any fee assessed in accordance with subsection (a)
96 of this section.

97 (f) All information given or received in connection with crisis
98 intervention and referral assistance provided pursuant to this section,
99 including the identity of any attorney seeking or receiving such crisis
100 intervention and referral assistance, shall be confidential and shall not
101 be disclosed to any third person other than a person to whom
102 disclosure is reasonably necessary for the accomplishment of the
103 purposes of such crisis intervention and referral assistance, and shall
104 not be disclosed in any civil or criminal case or proceeding or in any
105 legal or administrative proceeding, unless the attorney seeking or
106 obtaining such crisis intervention and referral assistance waives such
107 privilege or unless disclosure is otherwise required by law. Except as
108 otherwise provided in this subsection, no attorney who provides crisis
109 intervention and referral assistance pursuant to this section shall
110 disclose any information given or received in connection with such
111 crisis intervention and referral assistance unless such disclosure is
112 required by the rules governing communications between attorney
113 and client. Unless the privilege under this subsection has been waived

114 or unless disclosure is otherwise required by law, no person in any
115 civil or criminal case or proceeding or in any legal or administrative
116 proceeding may request or require any information given or received
117 in connection with the crisis intervention and referral assistance
118 provided pursuant to this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	51-81d

Statement of Purpose:

To require attorneys admitted to practice in this state who are engaged in the active practice of law on behalf of private clients to maintain professional liability insurance, and provide funding assistance from the Client Security Fund for the purpose of assisting attorneys to purchase such insurance.

[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.]