



General Assembly

January Session, 2019

***Raised Bill No. 7343***

LCO No. 5645



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING THE OFFICE OF THE CLAIMS  
COMMISSIONER.***

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

1 Section 1. Section 4-151a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2019, and*  
3 *applicable to any claim filed on or after said date*):

4 On his or her own motion or at the request of the claimant or the  
5 representative for the state, which representative may in appropriate  
6 cases be the Attorney General, the Claims Commissioner or a  
7 magistrate may waive the hearing of any claim for [five] ten thousand  
8 dollars or less and proceed upon affidavits filed by the claimant and  
9 the state agency concerned.

10 Sec. 2. Section 4-158 of the general statutes is repealed and the  
11 following is substituted in lieu thereof (*Effective October 1, 2019, and*  
12 *applicable to any claim filed on or after said date*):

13 (a) The Claims Commissioner may (1) order that a claim be denied  
14 or dismissed, (2) order immediate payment of a just claim in an

15 amount not exceeding [twenty] fifty thousand dollars, (3) recommend  
16 to the General Assembly payment of a just claim in an amount  
17 exceeding [twenty] fifty thousand dollars, or (4) authorize a claimant  
18 to sue the state, as provided in section 4-160, as amended by this act.

19 (b) Any person who has filed a claim for more than [twenty] fifty  
20 thousand dollars may request the General Assembly to review a  
21 decision of the Claims Commissioner (1) ordering the denial or  
22 dismissal of the claim pursuant to subdivision (1) of subsection (a) of  
23 this section, including denying or dismissing a claim that requests  
24 permission to sue the state, or (2) ordering immediate payment of a  
25 just claim in an amount not exceeding [twenty] fifty thousand dollars  
26 pursuant to subdivision (2) of subsection (a) of this section. A request  
27 for review shall be in writing and filed with the Office of the Claims  
28 Commissioner not later than twenty days after the date the person  
29 requesting such review receives a copy of the decision. The filing of a  
30 request for review shall automatically stay the decision of the Claims  
31 Commissioner.

32 (c) The Office of the Claims Commissioner shall submit each claim  
33 for which a request for review is filed pursuant to this section to the  
34 General Assembly pursuant to section 4-159, as amended by this act.

35 (d) If the Claims Commissioner orders immediate payment of a just  
36 claim in an amount not exceeding [twenty] fifty thousand dollars  
37 pursuant to subdivision (2) of subsection (a) of this section and a  
38 request for review is not timely filed pursuant to subsection (b) of this  
39 section, the Office of the Claims Commissioner shall deliver to the  
40 Comptroller a certified copy of the Claims Commissioner's order and  
41 the Comptroller shall make payment from such appropriation as the  
42 General Assembly may have made for the payment of claims or, in the  
43 case of contractual claims for goods or services furnished or for  
44 property leased, from the appropriation of the agency which received  
45 such goods or services or occupied such property.

46 (e) Whenever the Claims Commissioner deems it just and equitable,

47 the Claims Commissioner may, at any time prior to the submission of a  
48 claim to the General Assembly pursuant to subsection (a) of section 4-  
49 159, amended by this act, vacate the decision made pursuant to  
50 subsection (a) of this section and undertake such further proceedings  
51 in accordance with this chapter as the Claims Commissioner may, in  
52 his or her discretion, deem appropriate.

53 (f) Not later than five days after the convening of each regular  
54 session, the Office of the Claims Commissioner shall report to the  
55 General Assembly on all claims decided pursuant to this section.

56 Sec. 3. Section 4-159 of the general statutes is repealed and the  
57 following is substituted in lieu thereof (*Effective October 1, 2019, and*  
58 *applicable to any claim filed on or after said date*):

59 (a) Not later than five days after the convening of each regular  
60 session and at such other times as the speaker of the House of  
61 Representatives and president pro tempore of the Senate may desire,  
62 the Office of the Claims Commissioner shall submit to the General  
63 Assembly (1) all claims for which the Claims Commissioner or a  
64 magistrate recommended payment of a just claim in an amount  
65 exceeding [twenty] fifty thousand dollars pursuant to subdivision (3)  
66 of subsection (a) of section 4-158, as amended by this act, and (2) all  
67 claims for which a request for review has been filed pursuant to  
68 subsection (b) of section 4-158, as amended by this act, together with a  
69 copy of the Claims Commissioner's or the magistrate's findings and the  
70 hearing record of each claim so reported.

71 (b) The General Assembly shall:

72 (1) With respect to a decision of the Claims Commissioner ordering  
73 the denial or dismissal of a claim pursuant to subdivision (1) of  
74 subsection (a) of section 4-158, as amended by this act:

75 (A) Confirm the decision; or

76 (B) Vacate the decision and, in lieu thereof, (i) order the payment of

77 the claim in a specified amount, or (ii) authorize the claimant to sue the  
78 state;

79 (2) With respect to a decision of the Claims Commissioner ordering  
80 the immediate payment of a just claim in an amount not exceeding  
81 [twenty] fifty thousand dollars pursuant to subdivision (2) of  
82 subsection (a) of section 4-158, as amended by this act:

83 (A) Confirm the decision;

84 (B) Modify the decision by ordering that a different amount be paid;  
85 or

86 (C) Vacate the decision and, in lieu thereof, (i) order no payment be  
87 made, or (ii) authorize the claimant to sue the state;

88 (3) With respect to a decision of the Claims Commissioner  
89 recommending payment of a just claim in an amount exceeding  
90 [twenty] fifty thousand dollars pursuant to subdivision (3) of  
91 subsection (a) of section 4-158, as amended by this act:

92 (A) Accept the recommendation and order payment of the specified  
93 amount;

94 (B) Modify the recommendation by ordering that a different amount  
95 be paid; or

96 (C) Reject the recommendation and, in lieu thereof, (i) order no  
97 payment be made, or (ii) authorize the claimant to sue the state; or

98 (4) With respect to a decision of the Claims Commissioner pursuant  
99 to subdivision (1), (2) or (3) of subsection (a) of section 4-158, as  
100 amended by this act, remand the claim to the Office of the Claims  
101 Commissioner for such further proceedings as the General Assembly  
102 may direct.

103 (c) The General Assembly may grant the claimant permission to sue  
104 the state under the provisions of this section when the General

105 Assembly deems it just and equitable and believes the claim to present  
106 an issue of law or fact under which the state, were it a private person,  
107 could be liable.

108 (d) If the General Assembly orders the payment of a claim, the  
109 Office of the Claims Commissioner shall deliver to the Comptroller a  
110 notice of the order and the Comptroller shall make payment in the  
111 manner prescribed for payment of an order of the Claims  
112 Commissioner pursuant to section 4-158, as amended by this act.

113 (e) The review by the General Assembly of claims submitted to it by  
114 the Office of the Claims Commissioner under this section shall be  
115 conducted in accordance with such procedures as the General  
116 Assembly may prescribe.

117 Sec. 4. Section 4-160 of the general statutes is repealed and the  
118 following is substituted in lieu thereof (*Effective October 1, 2019, and*  
119 *applicable to any claim filed on or after said date*):

120 (a) Whenever the Claims Commissioner deems it just and equitable,  
121 the Claims Commissioner may authorize suit against the state on any  
122 claim which, in the opinion of the Claims Commissioner, presents an  
123 issue of law or fact under which the state, were it a private person,  
124 could be liable. Whenever a person files a claim that exclusively seeks  
125 permission to the sue the state, the Claims Commissioner may hold a  
126 hearing on the sole issue of the state's liability. During such hearing,  
127 the state may present as an affirmative defense the claimant's lack of  
128 damages. The Claims Commissioner, pursuant to section 4-157, may  
129 prescribe rules concerning a hearing that is held solely to address the  
130 state's liability under this subsection.

131 (b) In any claim alleging malpractice against the state, a state  
132 hospital or against a physician, surgeon, dentist, podiatrist,  
133 chiropractor or other licensed health care provider employed by the  
134 state, the attorney or party filing the claim may submit a certificate of  
135 good faith to the Office of the Claims Commissioner in accordance  
136 with section 52-190a. If such a certificate is submitted, the Claims

137 Commissioner shall authorize suit against the state on such claim. In  
138 lieu of filing a notice of claim pursuant to section 4-147, a claimant may  
139 commence a medical malpractice action against the state prior to the  
140 expiration of the limitation period set forth in section 4-148 and  
141 authorization for such action against the state shall be deemed granted.

142 (c) In each action authorized by the Claims Commissioner pursuant  
143 to subsection (a) or (b) of this section or by the General Assembly  
144 pursuant to section 4-159 or 4-159a, as amended by this act, the  
145 claimant shall allege such authorization and the date on which it was  
146 granted, except that evidence of such authorization shall not be  
147 admissible in such action as evidence of the state's liability. The state  
148 waives its immunity from liability and from suit in each such action  
149 and waives all defenses which might arise from the eleemosynary or  
150 governmental nature of the activity complained of. The rights and  
151 liability of the state in each such action shall be coextensive with and  
152 shall equal the rights and liability of private persons in like  
153 circumstances.

154 (d) No such action shall be brought but within one year from the  
155 date such authorization to sue is granted. With respect to any claim  
156 presented to the Office of the Claims Commissioner for which  
157 authorization to sue is granted, any statute of limitation applicable to  
158 such action shall be tolled until the date such authorization to sue is  
159 granted. The claimant shall bring such action against the state as party  
160 defendant in the judicial district in which the claimant resides or, if the  
161 claimant is not a resident of this state, in the judicial district of  
162 Hartford or in the judicial district in which the claim arose.

163 (e) Civil process directed against the state shall be served as  
164 provided by section 52-64.

165 (f) Issues arising in such actions shall be tried to the court without a  
166 jury.

167 (g) The laws and rules of practice governing disclosures in civil  
168 actions shall apply against state agencies and state officers and

169 employees possessing books, papers, records, documents or  
170 information pertinent to the issues involved in any such action.

171 (h) The Attorney General, with the consent of the court, may  
172 compromise or settle any such action. The terms of every such  
173 compromise or settlement shall be expressed in a judgment of the  
174 court.

175 (i) Costs may be allowed against the state as the court deems just,  
176 consistent with the provisions of chapter 901.

177 (j) The clerk of the court in which judgment is entered against the  
178 state shall forward a certified copy of such judgment to the  
179 Comptroller. The Attorney General shall certify to the Comptroller  
180 when the time allowed by law for proceeding subsequent to final  
181 judgment has expired and the Attorney General shall designate the  
182 state agency involved in the action. Upon receipt of such judgment and  
183 certification the Comptroller shall make payment as follows: Amounts  
184 directed by law to be paid from a special fund shall be paid from such  
185 special fund; amounts awarded upon contractual claims for goods or  
186 services furnished or for property leased shall be paid from the  
187 appropriation of the agency which received such goods or services or  
188 occupied such property; all other amounts shall be paid from such  
189 appropriation as the General Assembly may have made for the  
190 payment of claims.

191 (k) Not later than five days after the convening of each regular  
192 session, the Attorney General shall report to the joint standing  
193 committee of the General Assembly having cognizance of matters  
194 relating to the judiciary on the status and disposition of all actions  
195 authorized pursuant to this section or section 4-159, as amended by  
196 this act, or brought against the state under any other provision of law  
197 and in which the interests of the state are represented by the Attorney  
198 General. The report shall include: (1) The number of such actions  
199 pending in state and federal court, categorized by the alleged ground  
200 for the action, (2) the number of new actions brought in the preceding

201 year in state and federal court, categorized by the alleged ground for  
202 the action, (3) the number of actions disposed of in the preceding year,  
203 categorized by the ground for the action that was disposed of and  
204 whether the action was disposed of by settlement or litigation to final  
205 judgment, and the amount paid for actions within the respective  
206 categories, and (4) such other information as may be requested, from  
207 time to time, by the joint standing committee of the General Assembly  
208 having cognizance of matters relating to the judiciary. The report shall  
209 identify each action disposed of by payment of an amount exceeding  
210 one hundred thousand dollars.

211 Sec. 5. Section 4-142b of the general statutes is repealed and the  
212 following is substituted in lieu thereof (*Effective October 1, 2019*):

213 The Office of the Claims Commissioner shall maintain a permanent  
214 office in Hartford County in such suitable space as the Commissioner  
215 of Administrative Services provides. All papers required to be filed  
216 with the Office of the Claims Commissioner shall be delivered to such  
217 office. The Claims Commissioner may designate one or more  
218 magistrates who shall be available to the Office of the Claims  
219 Commissioner to hear [and determine claims] a claim and issue a  
220 decision concerning the final disposition of a claim against the state, as  
221 provided for in this chapter. The Claims Commissioner may appoint  
222 any magistrate who is on the list of available magistrates maintained  
223 by the Chief Court Administrator. [The Claims Commissioner shall be  
224 solely responsible for making any decision concerning the final  
225 disposition of a claim, provided any] A magistrate appointed by the  
226 Claims Commissioner may review, [and hear a claim and] hear and  
227 decide a claim, or make a recommendation to the Claims  
228 Commissioner concerning the final disposition of a claim. The Claims  
229 Commissioner shall establish such rules as he or she deems necessary  
230 to provide for the appointment of a magistrate to hear and decide  
231 matters pursuant to the provisions of this chapter. Such rules may  
232 include limitations on the types of matters that may be heard and  
233 decided by a magistrate and may provide for the issuance of a  
234 recommendation by a magistrate concerning the final disposition of a



235 claim that is subject to review and approval by the Claims  
236 Commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019, and applicable to any claim filed on or after said date</i>	4-151a
Sec. 2	<i>October 1, 2019, and applicable to any claim filed on or after said date</i>	4-158
Sec. 3	<i>October 1, 2019, and applicable to any claim filed on or after said date</i>	4-159
Sec. 4	<i>October 1, 2019, and applicable to any claim filed on or after said date</i>	4-160
Sec. 5	<i>October 1, 2019</i>	4-142b

**Statement of Purpose:**

To: (1) Increase the Claims Commissioner's threshold for settling claims from twenty thousand dollars to fifty thousand dollars, (2) permit the Claims Commissioner to hold hearings on liability only, (3) to permit certain medical malpractice claims to be initiated in state court instead of the Office of the Claims Commissioner, and (4) give the Claims Commissioner authority to delegate certain decision making authority to a magistrate.

*[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.]*