



General Assembly

January Session, 2021

**Raised Bill No. 6506**

LCO No. 3909



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

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

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

1 Section 1. Section 4-141 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in this chapter:

4 (1) "Certificate of merit" means a certificate, filed by the attorney or  
5 pro se party filing a claim, indicating that such attorney or pro se party  
6 has made a reasonable inquiry, as permitted by the circumstances,  
7 which inquiry gives rise to the attorney's or pro se party's good faith  
8 belief that grounds exist for a suit against the state;

9 ~~[(1)]~~ (2) "Claim" means a petition for the payment or refund of money  
10 by the state or for permission to sue the state;

11 ~~[(2)]~~ (3) "Just claim" means a claim which in equity and justice the  
12 state should pay, provided the state has caused damage or injury or has  
13 received a benefit;

14     ~~[(3)]~~ (4) "Person" means any individual, firm, partnership,  
15 corporation, limited liability company, association or other group,  
16 including political subdivisions of the state;

17     ~~[(4)]~~ (5) "State agency" includes every department, division, board,  
18 office, commission, arm, agency and institution of the state government,  
19 whatever its title or function; and

20     ~~[(5)]~~ (6) "State officers and employees" includes (A) every person  
21 elected or appointed to or employed in any office, position or post in the  
22 state government, whatever such person's title, classification or function  
23 and whether such person serves with or without remuneration or  
24 compensation, including judges of probate courts, employees of such  
25 courts and special limited conservators appointed by such courts  
26 pursuant to section 17a-543a, and (B) attorneys appointed as victim  
27 compensation commissioners, attorneys appointed by the Public  
28 Defender Services Commission as public defenders, assistant public  
29 defenders or deputy assistant public defenders and attorneys appointed  
30 by the court as Division of Public Defender Services assigned counsel,  
31 individuals appointed by the Public Defender Services Commission, or  
32 by the court, as a guardian ad litem or attorney for a party in a neglect,  
33 abuse, termination of parental rights, delinquency or family with service  
34 needs proceeding, the Attorney General, the Deputy Attorney General  
35 and any associate attorney general or assistant attorney general, any  
36 other attorneys employed by any state agency, any commissioner of the  
37 Superior Court hearing small claims matters or acting as a fact-finder,  
38 arbitrator or magistrate or acting in any other quasi-judicial position,  
39 any person appointed to a committee established by law for the purpose  
40 of rendering services to the Judicial Department, including, but not  
41 limited to, the Legal Specialization Screening Committee, the State-  
42 Wide Grievance Committee, the Client Security Fund Committee, the  
43 advisory committee appointed pursuant to section 51-81d and the State  
44 Bar Examining Committee, any member of a multidisciplinary team  
45 established by the Commissioner of Children and Families pursuant to  
46 section 17a-106a, the Municipal Electric Consumer Advocate selected  
47 pursuant to section 7-121f, the Independent Consumer Advocate

48 selected pursuant to section 7-334a, and any physicians or psychologists  
49 employed by any state agency. "State officers and employees" does not  
50 include any medical or dental intern, resident or fellow of The  
51 University of Connecticut when (i) the intern, resident or fellow is  
52 assigned to a hospital affiliated with the university through an  
53 integrated residency program, and (ii) such hospital provides protection  
54 against professional liability claims in an amount and manner  
55 equivalent to that provided by the hospital to its full-time physician  
56 employees.

57 Sec. 2. Section 4-147 of the general statutes is repealed and the  
58 following is substituted in lieu thereof (*Effective from passage*):

59 Any person wishing to present a claim against the state shall file with  
60 the Office of the Claims Commissioner a notice of claim, in duplicate,  
61 containing the following information: (1) The name and address of the  
62 claimant; the name and address of his principal, if the claimant is acting  
63 in a representative capacity, and the name and address of his attorney,  
64 if the claimant is so represented; (2) a concise statement of the basis of  
65 the claim, including the date, time, place and circumstances of the act or  
66 event complained of; (3) a statement of the amount requested; and (4) a  
67 request for permission to sue the state, if such permission is sought. A  
68 claim exclusively setting forth a request for permission to sue the state  
69 may be accompanied by supporting evidence, including, but not limited  
70 to, records, documents, reports, affidavits or memoranda. A notice of  
71 claim, if sent by mail, shall be deemed to have been filed with the Office  
72 of the Claims Commissioner on the date such notice of claim is  
73 postmarked. Claims in excess of five thousand dollars shall be  
74 accompanied by a check or money order in the sum of fifty dollars  
75 payable to the Treasurer, state of Connecticut. Claims for five thousand  
76 dollars or less shall be accompanied by a check or money order in the  
77 sum of twenty-five dollars payable to the Treasurer, state of  
78 Connecticut. Except as provided in section 4-165b, fees may be waived  
79 by the Claims Commissioner for good cause but such action by the  
80 Claims Commissioner shall not relieve the claimant from the obligation  
81 of filing the notice of claim in timely fashion within the statute of

82 limitations under section 4-148. The Office of the Claims Commissioner  
83 shall promptly deliver a copy of the notice of claim to the Attorney  
84 General. Such notice shall be for informational purposes only and shall  
85 not be subject to any formal or technical requirements, except as may be  
86 necessary for clarity of presentation and facility of understanding.

87 Sec. 3. Section 4-160 of the general statutes is repealed and the  
88 following is substituted in lieu thereof (*Effective from passage*):

89 (a) Whenever the Claims Commissioner deems it just and equitable,  
90 the Claims Commissioner may authorize suit against the state on any  
91 claim which, in the opinion of the Claims Commissioner, presents an  
92 issue of law or fact under which the state, were it a private person, could  
93 be liable. [Whenever a person files a claim that exclusively seeks  
94 permission to sue the state, the Claims Commissioner may hold a  
95 hearing on the sole issue of the state's liability. During such hearing, the  
96 state may present as an affirmative defense the claimant's lack of  
97 damages. The Claims Commissioner may prescribe rules pursuant to  
98 section 4-157 concerning a hearing that is held solely to address the  
99 state's liability under this subsection.] The claims commissioner may  
100 grant permission for a claim that exclusively seeks permission to sue the  
101 state based solely on the notice of claim or any supporting evidence  
102 submitted pursuant to section 4-147, as amended by this act, or both,  
103 without holding a hearing, provided the notice of claim is accompanied  
104 by a certificate of merit. Any notice of opposition filed by the Attorney  
105 General or a state agency or department pursuant to section 4-149 in  
106 response to a claim that exclusively seeks permission to sue the state  
107 shall be limited to opposition of the claim based solely on jurisdictional  
108 grounds.

109 (b) (1) Any claim exclusively requesting permission to sue the state  
110 that was filed with the Office of the Claims Commissioner on or before  
111 December 31, 2018, and remains pending on December 31, 2021, shall be  
112 deemed to have been granted by the Claims Commissioner upon the  
113 filing of a certificate of merit, with such permission effective the date of  
114 the filing of such certificate with the Office of the Claims Commissioner.

115 (2) Any claim exclusively requesting permission to sue the state that  
116 is pending with the Office of Claims Commissioner on July 1, 2022, or  
117 that is filed with the Office of Claims Commissioner on or after July 1,  
118 2022, shall, if the claim is not disposed of within eighteen months of the  
119 date of filing, be deemed to have been granted by the Claims  
120 Commissioner upon the filing of a certificate of merit with the Office of  
121 the Claims Commissioner. The provisions of this subdivision shall not  
122 apply to a claim in which the parties have stipulated to an extension of  
123 time for the Office of the Claims Commissioner to dispose of the claim.

124 [(b)] (c) In any claim alleging malpractice against the state, a state  
125 hospital or against a physician, surgeon, dentist, podiatrist, chiropractor  
126 or other licensed health care provider employed by the state, the  
127 attorney or pro se party filing the claim may submit a certificate of good  
128 faith to the Office of the Claims Commissioner in accordance with  
129 section 52-190a. If such a certificate is submitted, [the Claims  
130 Commissioner shall authorize suit against the state on such claim]  
131 permission to sue the state shall be deemed granted by the Claims  
132 Commissioner upon the filing of the certificate of good faith with the  
133 Office of the Claims Commissioner. In lieu of filing a notice of claim  
134 pursuant to section 4-147, as amended by this act, a claimant may  
135 commence a medical malpractice action against the state prior to the  
136 expiration of the limitation period set forth in section 4-148 and  
137 authorization for such action against the state shall be deemed granted.  
138 Any such action shall be limited to medical malpractice claims only and  
139 any such action shall be deemed a suit otherwise authorized by law in  
140 accordance with subsection (a) of section 4-142.

141 (d) After completion of discovery in a suit filed in the Superior Court  
142 after receiving permission to sue the state on the basis of a certificate of  
143 merit filed in accordance with subsection (a) or (b) of this section, if the  
144 court determines that such certificate was not made in good faith, that  
145 no justiciable issue was presented against the state and that the state  
146 fully cooperated with the claimant by providing informal discovery, the  
147 court, upon motion or on its own initiative, shall impose upon the  
148 attorney or pro se party who signed such certificate an appropriate

149 sanction, which may include an order to pay to the state the reasonable  
150 expenses incurred by the state because of the filing of the suit. The court  
151 may also submit the matter to the appropriate authority for disciplinary  
152 review of the attorney who submitted the certificate of merit.

153 [(c)] (e) In each action authorized by the Claims Commissioner or any  
154 action where permission to sue the state has been deemed to have been  
155 granted by the Claims Commissioner pursuant to subsection (a), [or] (b)  
156 or (c) of this section or by the General Assembly pursuant to section 4-  
157 159 or 4-159a, the claimant shall allege such authorization or permission  
158 and the date on which it was granted, except that evidence of such  
159 authorization or permission shall not be admissible in such action as  
160 evidence of the state's liability. The state waives its immunity from  
161 liability and from suit in each such action and waives all defenses which  
162 might arise from the eleemosynary or governmental nature of the  
163 activity complained of. The rights and liability of the state in each such  
164 action shall be coextensive with and shall equal the rights and liability  
165 of private persons in like circumstances.

166 [(d)] (f) No such action shall be brought but within one year from the  
167 date such authorization or permission to sue is granted. With respect to  
168 any claim presented to the Office of the Claims Commissioner for which  
169 authorization or permission to sue is granted, any statute of limitation  
170 applicable to such action shall be tolled until the date such authorization  
171 or permission to sue is granted. The claimant shall bring such action  
172 against the state as party defendant in the judicial district in which the  
173 claimant resides or, if the claimant is not a resident of this state, in the  
174 judicial district of Hartford or in the judicial district in which the claim  
175 arose.

176 [(e)] (g) Civil process directed against the state shall be served as  
177 provided by section 52-64.

178 [(f)] (h) Issues arising in such actions shall be tried to the court  
179 without a jury.

180 [(g)] (i) The laws and rules of practice governing disclosures in civil

181 actions shall apply against state agencies and state officers and  
182 employees possessing books, papers, records, documents or  
183 information pertinent to the issues involved in any such action.

184 [(h)] (j) The Attorney General, with the consent of the court, may  
185 compromise or settle any such action. The terms of every such  
186 compromise or settlement shall be expressed in a judgment of the court.

187 [(i)] (k) Costs may be allowed against the state as the court deems just,  
188 consistent with the provisions of chapter 901.

189 [(j)] (l) The clerk of the court in which judgment is entered against the  
190 state shall forward a certified copy of such judgment to the Comptroller.  
191 The Attorney General shall certify to the Comptroller when the time  
192 allowed by law for proceeding subsequent to final judgment has expired  
193 and the Attorney General shall designate the state agency involved in  
194 the action. Upon receipt of such judgment and certification the  
195 Comptroller shall make payment as follows: Amounts directed by law  
196 to be paid from a special fund shall be paid from such special fund;  
197 amounts awarded upon contractual claims for goods or services  
198 furnished or for property leased shall be paid from the appropriation of  
199 the agency which received such goods or services or occupied such  
200 property; all other amounts shall be paid from such appropriation as the  
201 General Assembly may have made for the payment of claims.

202 [(k)] (m) Not later than five days after the convening of each regular  
203 session, the Attorney General shall report to the joint standing  
204 committee of the General Assembly having cognizance of matters  
205 relating to the judiciary on the status and disposition of all actions  
206 authorized pursuant to this section or section 4-159, or brought against  
207 the state under any other provision of law and in which the interests of  
208 the state are represented by the Attorney General. The report shall  
209 include: (1) The number of such actions pending in state and federal  
210 court, categorized by the alleged ground for the action, (2) the number  
211 of new actions brought in the preceding year in state and federal court,  
212 categorized by the alleged ground for the action, (3) the number of

213 actions disposed of in the preceding year, categorized by the ground for  
214 the action that was disposed of and whether the action was disposed of  
215 by settlement or litigation to final judgment, and the amount paid for  
216 actions within the respective categories, and (4) such other information  
217 as may be requested, from time to time, by the joint standing committee  
218 of the General Assembly having cognizance of matters relating to the  
219 judiciary. The report shall identify each action disposed of by payment  
220 of an amount exceeding one hundred thousand dollars.

221 Sec. 4. Section 3-125a of the general statutes is repealed and the  
222 following is substituted in lieu thereof (*Effective from passage*):

223 (a) Notwithstanding the provisions of subsection [(h)] (j) of section 4-  
224 160, as amended by this act, the Attorney General shall not enter into  
225 any agreement or stipulation in connection with a lawsuit to which the  
226 state is a party that contains any provision which requires an  
227 expenditure from the General Fund budget in an amount in excess of  
228 two million five hundred thousand dollars over the term of the  
229 agreement or stipulation, unless the General Assembly, by resolution,  
230 accepts the terms of such provision. The General Assembly may reject  
231 such provision by a three-fifths vote of each house. Such provision shall  
232 be deemed approved if the General Assembly fails to vote to approve or  
233 reject such provision within thirty days of the date of submittal pursuant  
234 to subsection (b) of this section.

235 (b) Each such agreement or stipulation shall be submitted to the  
236 General Assembly by the Attorney General and shall be referred to the  
237 committees of cognizance which shall report thereon by resolution.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4-141
Sec. 2	<i>from passage</i>	4-147
Sec. 3	<i>from passage</i>	4-160
Sec. 4	<i>from passage</i>	3-125a



***Statement of Purpose:***

To revise procedures of the Office of the Claims Commissioner, including authorizing claimants to file a certificate of merit for claims seeking permission to sue the state, allowing the Office of the Claims Commissioner to grant permission to sue the state without a hearing under certain circumstances and providing that certain claims that have not been disposed of within a specified time be deemed to have been granted permission to sue the state.

*[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.]*