



General Assembly

Substitute Bill No. 6506

January Session, 2021



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 Section 4-141 of the general statutes is repealed and the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) "Affidavit attesting to the validity of a claim" means the affidavit
5 referred to under section 4-160, as amended by this act;

6 ~~[(1)]~~ (2) "Claim" means a petition for the payment or refund of money
7 by the state or for permission to sue the state;

8 ~~[(2)]~~ (3) "Just claim" means a claim which in equity and justice the
9 state should pay, provided the state has caused damage or injury or has
10 received a benefit;

11 ~~[(3)]~~ (4) "Person" means any individual, firm, partnership,
12 corporation, limited liability company, association or other group,
13 including political subdivisions of the state;

14 ~~[(4)]~~ (5) "State agency" includes every department, division, board,
15 office, commission, arm, agency and institution of the state government,
16 whatever its title or function; and

17 [(5)] (6) "State officers and employees" includes (A) every person
18 elected or appointed to or employed in any office, position or post in the
19 state government, whatever such person's title, classification or function
20 and whether such person serves with or without remuneration or
21 compensation, including judges of probate courts, employees of such
22 courts and special limited conservators appointed by such courts
23 pursuant to section 17a-543a, and (B) attorneys appointed as victim
24 compensation commissioners, attorneys appointed by the Public
25 Defender Services Commission as public defenders, assistant public
26 defenders or deputy assistant public defenders and attorneys appointed
27 by the court as Division of Public Defender Services assigned counsel,
28 individuals appointed by the Public Defender Services Commission, or
29 by the court, as a guardian ad litem or attorney for a party in a neglect,
30 abuse, termination of parental rights, delinquency or family with service
31 needs proceeding, the Attorney General, the Deputy Attorney General
32 and any associate attorney general or assistant attorney general, any
33 other attorneys employed by any state agency, any commissioner of the
34 Superior Court hearing small claims matters or acting as a fact-finder,
35 arbitrator or magistrate or acting in any other quasi-judicial position,
36 any person appointed to a committee established by law for the purpose
37 of rendering services to the Judicial Department, including, but not
38 limited to, the Legal Specialization Screening Committee, the State-
39 Wide Grievance Committee, the Client Security Fund Committee, the
40 advisory committee appointed pursuant to section 51-81d and the State
41 Bar Examining Committee, any member of a multidisciplinary team
42 established by the Commissioner of Children and Families pursuant to
43 section 17a-106a, the Municipal Electric Consumer Advocate selected
44 pursuant to section 7-121f, the Independent Consumer Advocate
45 selected pursuant to section 7-334a, and any physicians or psychologists
46 employed by any state agency. "State officers and employees" does not
47 include any medical or dental intern, resident or fellow of The
48 University of Connecticut when (i) the intern, resident or fellow is
49 assigned to a hospital affiliated with the university through an
50 integrated residency program, and (ii) such hospital provides protection
51 against professional liability claims in an amount and manner

52 equivalent to that provided by the hospital to its full-time physician
53 employees.

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

56 Any person wishing to present a claim against the state shall file with
57 the Office of the Claims Commissioner a notice of claim, in duplicate,
58 containing the following information: (1) The name and address of the
59 claimant; the name and address of his principal, if the claimant is acting
60 in a representative capacity, and the name and address of his attorney,
61 if the claimant is so represented; (2) a concise statement of the basis of
62 the claim, including the date, time, place and circumstances of the act or
63 event complained of; (3) a statement of the amount requested; and (4) a
64 request for permission to sue the state, if such permission is sought. A
65 claim exclusively setting forth a request for permission to sue the state
66 may be accompanied by supporting evidence, including, but not limited
67 to, records, documents, reports, affidavits or memoranda. A notice of
68 claim, if sent by mail, shall be deemed to have been filed with the Office
69 of the Claims Commissioner on the date such notice of claim is
70 postmarked. Claims in excess of five thousand dollars shall be
71 accompanied by a check or money order in the sum of fifty dollars
72 payable to the Treasurer, state of Connecticut. Claims for five thousand
73 dollars or less shall be accompanied by a check or money order in the
74 sum of twenty-five dollars payable to the Treasurer, state of
75 Connecticut. Except as provided in section 4-165b, fees may be waived
76 by the Claims Commissioner for good cause but such action by the
77 Claims Commissioner shall not relieve the claimant from the obligation
78 of filing the notice of claim in timely fashion within the statute of
79 limitations under section 4-148. The Office of the Claims Commissioner
80 shall promptly deliver a copy of the notice of claim to the Attorney
81 General. Such notice shall be for informational purposes only and shall
82 not be subject to any formal or technical requirements, except as may be
83 necessary for clarity of presentation and facility of understanding.

84 Sec. 3. Subsection (a) of section 4-159a of the general statutes is

85 repealed and the following is substituted in lieu thereof (*Effective from*
86 *passage*):

87 (a) Not later than five days after the convening of each regular
88 session, the Office of the Claims Commissioner shall report to the
89 General Assembly on all claims that have been filed with the Office of
90 the Claims Commissioner pursuant to section 4-147 and have not been
91 disposed of by the Office of the Claims Commissioner within two years
92 of the date of filing or within any extension thereof granted by the
93 General Assembly pursuant to subsection (c) of this section or deemed
94 granted pursuant to subsection (b) of section 4-160, as amended by this
95 act, except claims in which the parties have stipulated to an extension of
96 time for the Office of the Claims Commissioner to dispose of the claim.

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

99 (a) Whenever the Claims Commissioner deems it just and equitable,
100 the Claims Commissioner may authorize suit against the state on any
101 claim which, in the opinion of the Claims Commissioner, presents an
102 issue of law or fact under which the state, were it a private person, could
103 be liable. [Whenever a person files a claim that exclusively seeks
104 permission to sue the state, the Claims Commissioner may hold a
105 hearing on the sole issue of the state's liability. During such hearing, the
106 state may present as an affirmative defense the claimant's lack of
107 damages. The Claims Commissioner may prescribe rules pursuant to
108 section 4-157 concerning a hearing that is held solely to address the
109 state's liability under this subsection.] The claims commissioner may
110 grant permission for a claim that exclusively seeks permission to sue the
111 state based solely on the notice of claim or any supporting evidence
112 submitted pursuant to section 4-147, as amended by this act, or both,
113 without holding a hearing, upon the filing by the attorney or pro se
114 claimant of (1) a motion for approval to assert a claim without a hearing,
115 requesting a ruling based solely on the notice of the claim and any
116 supporting evidence submitted under the provisions of this chapter,
117 and (2) an affidavit attesting to the validity of a claim. Such affidavit,

118 shall be signed and filed by both the attorney and claimant or a pro se
119 claimant, attesting to the following, in the following form: "I have made
120 a reasonable inquiry, as permitted by the circumstances, which has
121 given rise to a good faith belief that grounds exist for a suit against the
122 state. Such inquiry includes, (provide a brief description of the inquiry
123 made)". Any notice of opposition filed by the Attorney General or a state
124 agency or department pursuant to section 4-149 in response to a claim
125 that exclusively seeks permission to sue the state shall be limited to
126 opposition of the claim based solely on jurisdictional grounds or
127 prosecutorial, judicial, quasi-judicial or legislative immunity.

128 (b) Except for claims in which an uncontested dispositive motion is
129 pending, any claim exclusively requesting permission to sue the state
130 that was filed on or before January 1, 2019, and is not disposed of by the
131 Office of the Claims Commissioner, shall be deemed to have been
132 granted by the Claims Commissioner, and authorization to sue the state
133 shall become effective in accordance with the provisions of this
134 subsection.

135 (1) Any such claim that was filed with the Office of the Claims
136 Commissioner on or before January 1, 2016, and remains pending with
137 the Office of the Claims Commissioner as of the effective date of this
138 section, shall be deemed to have been granted by the Claims
139 Commissioner and authorization to sue the state shall be effective as of
140 the effective date of this section.

141 (2) Any such claim that was filed with the Office of the Claims
142 Commissioner on or before January 1, 2017, and remains pending with
143 the Office of the Claims Commissioner as of October 1, 2021, shall be
144 deemed to have been granted by the Claims Commissioner and
145 authorization to sue the state shall be effective as of October 1, 2021.

146 (3) Any such claim that was filed with the Office of the Claims
147 Commissioner on or before January 1, 2019, and remains pending with
148 the Office of the Claims Commissioner as of December 31, 2021, shall be
149 deemed to have been granted by the Claims Commissioner and

150 authorization to sue the state shall be effective as of December 31, 2021.

151 (c) Any claim exclusively requesting permission to sue the state that
152 remains pending with the Office of the Claims Commissioner for
153 twenty-four months or longer as of July 1, 2022, shall be deemed granted
154 upon the filing of an affidavit attesting to the validity of a claim with the
155 Office of the Claims Commissioner.

156 (d) On and after July 1, 2022, any claim exclusively requesting
157 permission to sue the state that remains pending with the Office of the
158 Claims Commissioner for twenty-four months shall be deemed granted
159 upon the filing of an affidavit attesting to the validity of a claim with the
160 Office of the Claims Commissioner. The provisions of this subsection
161 shall not apply to a claim in which the parties have stipulated to an
162 extension of time for the Office of the Claims Commissioner to dispose
163 of the claim.

164 (e) When a claim exclusively seeking permission to sue the state is
165 not contested by the state, permission to sue the state shall be deemed
166 granted upon the filing with the Office of the Claims Commissioner of
167 a stipulation signed by the Attorney General authorizing permission to
168 sue the state.

169 [(b)] (f) In any claim alleging malpractice against the state, a state
170 hospital or against a physician, surgeon, dentist, podiatrist, chiropractor
171 or other licensed health care provider employed by the state, the
172 attorney or pro se party filing the claim may submit a certificate of good
173 faith to the Office of the Claims Commissioner in accordance with
174 section 52-190a. If such a certificate is submitted, [the Claims
175 Commissioner shall authorize suit against the state on such claim]
176 permission to sue the state shall be deemed granted by the Claims
177 Commissioner upon the filing of the certificate of good faith with the
178 Office of the Claims Commissioner. In lieu of filing a notice of claim
179 pursuant to section 4-147, as amended by this act, a claimant may
180 commence a medical malpractice action against the state prior to the
181 expiration of the limitation period set forth in section 4-148 and

182 authorization for such action against the state shall be deemed granted.
183 Any such action shall be limited to medical malpractice claims only and
184 any such action shall be deemed a suit otherwise authorized by law in
185 accordance with subsection (a) of section 4-142.

186 (g) After completion of discovery in a suit filed in the Superior Court
187 after receiving permission to sue the state on the basis of an affidavit
188 attesting to the validity of a claim filed in accordance with subsection
189 (a), (c) or (d) of this section, if the court determines that such affidavit
190 was not made in good faith, that no justiciable issue was presented
191 against the state and that the state cooperated in good faith with the
192 claimant by providing informal discovery, the court, upon motion or on
193 its own initiative, shall impose upon the attorney and claimant or pro se
194 claimant who signed such affidavit an appropriate sanction, which may
195 include an order to pay to the state the reasonable expenses incurred by
196 the state because of the filing of the suit. The court may also submit the
197 matter to the appropriate authority for disciplinary review of any
198 attorney who submitted the affidavit.

199 [(c)] (h) (1) In each action authorized by the Claims Commissioner or
200 any action where permission to sue the state has been deemed to have
201 been granted by the Claims Commissioner pursuant to subsection (a)
202 [or (b)] to (e), inclusive, of this section or by the General Assembly
203 pursuant to section 4-159 or 4-159a, as amended by this act, the claimant
204 shall allege such authorization or permission and the date on which it
205 was granted, except that evidence of such authorization or permission
206 shall not be admissible in such action as evidence of the state's liability.
207 [The] Except as provided in subdivision (2) of this subsection, (1) the
208 state waives its immunity from liability and from suit in each such
209 action and waives all defenses which might arise from the eleemosynary
210 or governmental nature of the activity complained of, [The] and (2) the
211 rights and liability of the state in each such action shall be coextensive
212 with and shall equal the rights and liability of private persons in like
213 circumstances.

214 (2) In each action in which suit is authorized pursuant to subsections

215 (b) to (d), inclusive, of this section, sovereign immunity is waived
216 subject to the state having the ability to raise prosecutorial, judicial,
217 quasi-judicial or legislative immunity or any jurisdictional defense that
218 otherwise could have been raised at the Office of the Claims
219 Commissioner. Any such defense shall not implicate the subject matter
220 jurisdiction of the court. No such action authorized, pursuant to
221 subsections (b) to (d), inclusive, of this section, shall be cited as
222 precedent in future cases.

223 [(d)] (i) No such action shall be brought but within one year from the
224 date such authorization becomes effective or permission to sue is
225 granted, whichever date is later. With respect to any claim presented to
226 the Office of the Claims Commissioner for which authorization or
227 permission to sue is granted, any statute of limitation applicable to such
228 action shall be tolled until the date such authorization or permission to
229 sue is granted. The claimant shall bring such action against the state as
230 party defendant in the judicial district in which the claimant resides or,
231 if the claimant is not a resident of this state, in the judicial district of
232 Hartford or in the judicial district in which the claim arose.

233 [(e)] (j) Civil process directed against the state shall be served as
234 provided by section 52-64.

235 [(f)] (k) Issues arising in such actions shall be tried to the court
236 without a jury.

237 [(g)] (l) The laws and rules of practice governing disclosures in civil
238 actions shall apply against state agencies and state officers and
239 employees possessing books, papers, records, documents or
240 information pertinent to the issues involved in any such action.

241 [(h)] (m) The Attorney General, with the consent of the court, may
242 compromise or settle any such action. The terms of every such
243 compromise or settlement shall be expressed in a judgment of the court.

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

246 [(j)] (o) The clerk of the court in which judgment is entered against
247 the state shall forward a certified copy of such judgment to the
248 Comptroller. The Attorney General shall certify to the Comptroller
249 when the time allowed by law for proceeding subsequent to final
250 judgment has expired and the Attorney General shall designate the state
251 agency involved in the action. Upon receipt of such judgment and
252 certification the Comptroller shall make payment as follows: Amounts
253 directed by law to be paid from a special fund shall be paid from such
254 special fund; amounts awarded upon contractual claims for goods or
255 services furnished or for property leased shall be paid from the
256 appropriation of the agency which received such goods or services or
257 occupied such property; all other amounts shall be paid from such
258 appropriation as the General Assembly may have made for the payment
259 of claims.

260 [(k)] (p) Not later than five days after the convening of each regular
261 session, the Attorney General shall report to the joint standing
262 committee of the General Assembly having cognizance of matters
263 relating to the judiciary on the status and disposition of all actions
264 authorized pursuant to this section or section 4-159, or brought against
265 the state under any other provision of law and in which the interests of
266 the state are represented by the Attorney General. The report shall
267 include: (1) The number of such actions pending in state and federal
268 court, categorized by the alleged ground for the action, (2) the number
269 of new actions brought in the preceding year in state and federal court,
270 categorized by the alleged ground for the action, (3) the number of
271 actions disposed of in the preceding year, categorized by the ground for
272 the action that was disposed of and whether the action was disposed of
273 by settlement or litigation to final judgment, and the amount paid for
274 actions within the respective categories, and (4) such other information
275 as may be requested, from time to time, by the joint standing committee
276 of the General Assembly having cognizance of matters relating to the
277 judiciary. The report shall identify each action disposed of by payment
278 of an amount exceeding one hundred thousand dollars.

279 Sec. 5. Section 3-125a of the general statutes is repealed and the
280 following is substituted in lieu thereof (*Effective from passage*):

281 (a) Notwithstanding the provisions of subsection [(h)] (j) of section 4-
282 160, as amended by this act, the Attorney General shall not enter into
283 any agreement or stipulation in connection with a lawsuit to which the
284 state is a party that contains any provision which requires an
285 expenditure from the General Fund budget in an amount in excess of
286 two million five hundred thousand dollars over the term of the
287 agreement or stipulation, unless the General Assembly, by resolution,
288 accepts the terms of such provision. The General Assembly may reject
289 such provision by a three-fifths vote of each house. Such provision shall
290 be deemed approved if the General Assembly fails to vote to approve or
291 reject such provision within thirty days of the date of submittal pursuant
292 to subsection (b) of this section.

293 (b) Each such agreement or stipulation shall be submitted to the
294 General Assembly by the Attorney General and shall be referred to the
295 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>	4-159a(a)
Sec. 4	<i>from passage</i>	4-160
Sec. 5	<i>from passage</i>	3-125a

Statement of Legislative Commissioners:

The description of the contents of the affidavit attesting to the validity of a claim and the motion for approval to assert a claim without a hearing were moved from the definitions in Section 1 to the text of Section 4(a) for consistency with standard drafting conventions, and the provisions of Section (4)(h)(1) were revised for consistency with the provisions of Section (4)(h)(2).

JUD Joint Favorable Subst.

