



**Substitute House Bill No. 7343**

**Public Act No. 19-182**

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

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

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 Section 4-151a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019, and applicable to any claim filed on or after said date*):

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

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 Section 4-158 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2019, and applicable to any claim filed on or after said date*):

(a) The Claims Commissioner may (1) order that a claim be denied or dismissed, (2) order immediate payment of a just claim in an amount not exceeding [twenty] thirty-five thousand dollars, (3) recommend to the General Assembly payment of a just claim in an amount exceeding [twenty] thirty-five thousand dollars, or (4)

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authorize a claimant to sue the state, as provided in section 4-160, as amended by this act.

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

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

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

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

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

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

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

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

(b) The General Assembly shall:

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

(A) Confirm the decision; or

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(B) Vacate the decision and, in lieu thereof, (i) order the payment of the claim in a specified amount, or (ii) authorize the claimant to sue the state;

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

(A) Confirm the decision;

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

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

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

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

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

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

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

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(c) The General Assembly may grant the claimant permission to sue the state under the provisions of this section when the General Assembly deems it just and equitable and believes the claim to present an issue of law or fact under which the state, were it a private person, could be liable.

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

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

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

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

(b) In any claim alleging malpractice against the state, a state

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hospital or against a physician, surgeon, dentist, podiatrist, chiropractor or other licensed health care provider employed by the state, the attorney or party filing the claim may submit a certificate of good faith to the Office of the Claims Commissioner in accordance with section 52-190a. If such a certificate is submitted, the Claims Commissioner shall authorize suit against the state on such claim. In lieu of filing a notice of claim pursuant to section 4-147, a claimant may commence a medical malpractice action against the state prior to the expiration of the limitation period set forth in section 4-148 and authorization for such action against the state shall be deemed granted. Any such action shall be limited to medical malpractice claims only and any such action shall be deemed a suit otherwise authorized by law in accordance with subsection (a) of section 4-142.

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

(d) No such action shall be brought but within one year from the date such authorization to sue is granted. With respect to any claim presented to the Office of the Claims Commissioner for which authorization to sue is granted, any statute of limitation applicable to such action shall be tolled until the date such authorization to sue is granted. The claimant shall bring such action against the state as party

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defendant in the judicial district in which the claimant resides or, if the claimant is not a resident of this state, in the judicial district of Hartford or in the judicial district in which the claim arose.

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

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

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

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

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

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

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appropriation as the General Assembly may have made for the payment of claims.

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

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

The Office of the Claims Commissioner shall maintain a permanent office in Hartford County in such suitable space as the Commissioner of Administrative Services provides. All papers required to be filed with the Office of the Claims Commissioner shall be delivered to such office. The Claims Commissioner may designate one or more magistrates who shall be available to the Office of the Claims Commissioner to hear [and determine claims] a claim and issue a



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decision concerning the final disposition of a claim against the state, as provided for in this chapter. The Claims Commissioner may appoint any magistrate who is on the list of available magistrates maintained by the Chief Court Administrator. [The Claims Commissioner shall be solely responsible for making any decision concerning the final disposition of a claim, provided any] A magistrate appointed by the Claims Commissioner may review, [and hear a claim and] hear and decide a claim, or make a recommendation to the Claims Commissioner concerning the final disposition of a claim. The Claims Commissioner shall establish such rules as he or she deems necessary to provide for the appointment of a magistrate to hear and decide matters pursuant to the provisions of this chapter. Such rules may include limitations on the types of matters that may be heard and decided by a magistrate and may provide for the issuance of a recommendation by a magistrate concerning the final disposition of a claim that is subject to review and approval by the Claims Commissioner.

Approved July 9, 2019