

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 19-182—sHB 7343

Judiciary Committee

AN ACT CONCERNING THE OFFICE OF THE CLAIMS COMMISSIONER

SUMMARY: This act makes several changes in the laws governing claims against the state.

The act increases, from \$20,000 to \$35,000, the maximum claim that the claims commissioner may award without legislative approval.

It allows a claimant to seek legislative review if he or she filed a claim exceeding \$50,000 and the claims commissioner dismisses the claim or orders a payment of \$35,000 or less. Under prior law, these thresholds were \$20,000.

It increases, from \$5,000 to \$10,000, the maximum claim for which the claims commissioner or a magistrate can waive a hearing and proceed on the parties' affidavits (§ 1). As under prior law, the commissioner or magistrate can do so on their own motion or that of a claimant or the state.

The act allows the claims commissioner to hold a hearing on the sole issue of the state's liability if the claimant exclusively seeks permission to sue the state (§ 4). It allows the (1) commissioner to adopt procedural rules for these hearings and (2) state to present the claimant's lack of damages as an affirmative defense. By law, a party has the burden of establishing an affirmative defense by a preponderance of the evidence.

For claims of alleged medical malpractice, the act authorizes claimants to sue the state if the statute of limitations for filing the claim has not expired, without requiring the claimant to submit a notice of claim and good faith certificate to the claims commissioner.

Lastly, the act allows a magistrate, designated by the commissioner, to issue a decision on a claim's final disposition, not just hear cases and make related recommendations as under prior law (§ 5).

EFFECTIVE DATE: October 1, 2019, and the provisions on claim thresholds, hearing waivers, hearings on liability only, and medical malpractice are applicable to claims filed on or after October 1, 2019.

§§ 2 & 3 — THRESHOLDS FOR DIRECT PAYMENT OR LEGISLATIVE REVIEW

By law, most claims against the state must be filed with the office of the claims commissioner. The commissioner may deny or dismiss a claim, authorize the claimant to sue the state, or (depending on the amount) order payment directly or recommend that the legislature approve payment.

The act increases the thresholds at which (1) the commissioner can order payment directly or must seek legislative review or (2) the claimant can otherwise

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request legislative review.

Under the act, the commissioner may (1) order payment of a just claim up to \$35,000 or (2) recommend to the legislature payment of a just claim exceeding \$35,000. A person filing a claim exceeding \$50,000 may request legislative review if the claims commissioner dismisses the claim or orders a payment of \$35,000 or less. Prior law set each of these thresholds at \$20,000.

The act makes conforming changes to the laws on claims submitted to the legislature for review (see BACKGROUND).

By law, a “just claim” is one which in equity and justice the state should pay, provided the state caused damage or injury or received a benefit.

§ 4 — MEDICAL MALPRACTICE

Under prior law, if a claimant sought to file a lawsuit against the state for medical malpractice, the attorney or claimant had to first submit to the claims commissioner a notice of claim and the certificate of good faith that is required in all medical malpractice lawsuits. This certificate must include an affidavit supporting the certificate from a similar health care provider.

Under the act, the claimant may instead directly file a lawsuit as long as it is filed before the statute of limitations for the claim expires. The act specifically authorizes such claimants to sue the state, as an exception to the general rule requiring that most claims be presented to the claims commissioner. The lawsuit must be limited to medical malpractice claims. As with other medical malpractice lawsuits, the claimant must file with the court the good faith certificate and accompanying affidavit from a similar provider.

By law, a claim against the state for personal injury, including alleged medical malpractice, generally must be filed within one year after the injury was sustained or discovered, or with reasonable care should have been discovered, but no later than three years from the date the injury was sustained (CGS § 4-148(a)).

BACKGROUND

Legislative Review of Claims

Claims submitted to the legislature are filed as resolutions with the Judiciary Committee. The committee holds a public hearing on the resolutions and votes on them at a committee meeting. The House and Senate can then debate and vote on them. For each claim, the legislature may (1) confirm the commissioner’s decision or recommendation, (2) order payment of a different amount, (3) deny payment, (4) authorize the claimant to sue the state, or (5) remand the claim to the commissioner’s office to conduct further proceedings (unless the commissioner granted the claimant permission to sue the state).