
OLR Bill Analysis

sHB 5379

AN ACT CONCERNING THE DUTIES OF THE STATE MARSHALS AND THE OPERATION OF THE STATE MARSHAL COMMISSION AND THE STATE MARSHALS ADVISORY BOARD.

SUMMARY

This bill makes various changes in statutes affecting state marshals.

Among other things, the bill does the following:

1. no longer regards state marshals as independent contractors, and specifies that they are appointed state officers, not state employees (§ 4);
2. reduces the number of state marshals to be appointed in each county (§ 3);
3. increases a state marshal's required amount of personal liability insurance and bond (§§ 1 & 9);
4. makes changes to the time frames within which a state marshal must pay money he or she collected to the person authorized to receive it (§ 2);
5. raises state marshals' professional standards by, for example, making illegal billing and unlawful service of process grounds for a removal hearing (§§ 7 & 11);
6. prioritizes audits related to money collection, gives the State Marshal Commission access to a deceased or disabled state marshal's trust account, and provides confidentiality protections (§ 8);
7. makes changes to the State Marshal Commission regarding

filling vacancies and adopting rules related to timely payments (§ 5);

8. changes the member selection process of the 24-member State Marshals Advisory Board, and gives the board additional duties (§ 6);
9. allows the Department of Motor Vehicles (DMV) commissioner to disclose operators' photos to state marshals (§ 10); and
10. repeals an obsolete provision that previously allowed high sheriffs to apply for appointment as a state marshal (§ 12).

Lastly, the bill makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2024

§ 4 — STATE MARSHAL DEFINED

Under current law, a “state marshal” is a qualified deputy sheriff incumbent on June 30, 2000, or appointed by the State Marshal Commission (see below), who (1) has authority to provide legal execution and service of process in the state counties as an independent contractor and (2) is compensated on a fee for service basis, determined subject to any minimum rate promulgated by the state, by agreement with an attorney, court or public agency requiring execution or service of process.

The bill no longer regards state marshals as independent contractors. However, it explicitly states that a state marshal is not a state employee, but instead must be an appointed state officer whose exclusive method of compensation related to the marshal's statutory duties is as prescribed above.

§ 3 — NUMBER OF APPOINTMENTS BY COUNTY

The bill reduces the number of state marshals to be appointed in each county as shown in the table below, resulting in a decrease of 88 appointments statewide (from 318 to 230).

Table: State Marshals to be Appointed in Each County

County	Appointments Under Current Law	Appointments Under the Bill
Hartford	72	62
New Haven	62	55
New London	38	20
Fairfield	55	50
Windham	18	7
Litchfield	30	13
Middlesex	21	13
Tolland	22	10
Total	318	230

§ 1 — PERSONAL LIABILITY INSURANCE

The bill increases the amount of personal liability insurance each marshal must carry for damages caused by their tortious acts (see below) as follows:

1. from \$100,000 to \$250,000, for damages caused to any one person or any one person's property and
2. from \$300,000 to \$500,000, for damages caused to more than one person or more than one person's property.

Starting January 1, 2025, the bill requires the personal liability insurance to be a policy with a renewal date and a term of coverage starting on October 1 of each year and extending through September 30 of the following year.

Tortious Act. Under existing law, unchanged by the bill, "tortious act" means negligent acts, errors, or omissions for which a state marshal may become legally obligated to pay any damages for false arrest, erroneous service of civil papers, false imprisonment, malicious prosecution, libel, slander, defamation of character, violation of property rights, or assault and battery if committed while making or attempting to make an arrest or against a person under arrest, but does not include any such act unless the state marshal commits the act while performing his or her official duties.

§ 9 — BOND AMOUNT

The bill increases the bond amount that each state marshal must give the State Marshal Commission before starting their duties, from \$10,000 to \$100,000. By law, unchanged by the bill, the state pays the premium for the bond.

Existing law, unchanged by the bill, also requires a state marshal to execute a \$100,000 bond before he or she can collect tax warrants for the state or any municipality.

§ 2 — COLLECTION PROCEDURES

The bill makes changes to the time frames within which a state marshal must pay money collected on behalf of or on account of someone to the person authorized to receive it.

Under current law, a state marshal must do so within 30 calendar days after the date the state marshal collected the money or upon collecting \$1,000 or more, whichever is earlier. The bill requires the state marshal to do so within 30 calendar days of collecting the money, regardless of the dollar amount.

Additionally, the bill establishes a new time frame and requirements for when the money collected is in the form of a personal check. In that case, the state marshal must expeditiously deposit the check into the marshal's noninterest-bearing trustee account and pay the money to the person within 40 days after the date on which the personal check was collected.

As under current law, the bill allows the state marshal and the person to agree to a different time frame for payment in the form of a personal check than specified under the law.

By law, a state marshal who fails with these requirements or an agreement, as applicable, is liable to the person for interest on the money at a rate of 5% per month from the date on which the state marshal received the money.

§ 8 — AUDIT AND REVIEW OF RECORDS

Frequency of Audits

By law, the State Marshal Commission must periodically review and audit state marshal records and accounts. Regarding the collection of money, the bill additionally requires the commission to audit any state marshal upon (1) receipt of a written complaint signed by the person filing it, or (2) a complaint filed on behalf of the commission (presumably, one filed by a member of the commission). The commission must prioritize conducting these audits.

Death or Disability of a State Marshal

Under current law, upon a state marshal's death or disability, the commission must appoint a qualified individual to oversee and audit the state marshal's records and accounts and to render an accounting to the commission. Under the bill, this must be within 30 days after the death or disability.

Upon the death or disability of a state marshal, the bill authorizes the commission, through its chairperson, to direct any financial institution with access to, or custody of, financial accounts the state marshal used to collect money under tax collection and civil action law, to turn over the financial accounts to a successor state marshal the commission appoints.

Under the bill, a letter signed by the commission chairperson must constitute an order of the commission under this provision. Also, if any person or financial institution refuses to comply with the order, the commission must certify the facts relating to the noncompliance to the Office of the Attorney General, who must apply to the Superior Court for an order compelling compliance.

Confidentiality Protection

By law, all information obtained by the commission from any audit done under this provision is confidential and not subject to disclosure under the Freedom of Information Act.

§§ 7 & 11 — STATE MARSHAL PROFESSIONAL STANDARDS

Illegal Billing and Unlawful Service of Process (§ 7)

Current law prohibits a state marshal from knowingly billing for, or receiving fees for, work that he or she did not do. The bill also prohibits a state marshal from:

1. unlawfully allowing another person to serve process in his or her place or
2. knowingly making a false or illegal return of process.

The bill makes any violation under current law or the bill without good cause sufficient to convene the commission for a hearing on the state marshal's removal.

Service Within Appointed Precinct or Extension (§ 11)

The bill expressly prohibits a state marshal, as a matter of practice, from receiving, directing, transferring, controlling, or soliciting process from an attorney, for which the state marshal cannot lawfully serve within the state marshal's appointed precinct or extension of precinct under the law.

§ 5 — STATE MARSHAL COMMISSION

The bill makes changes to the State Marshal Commission regarding the filling of vacancies, timely payments, and the adoption of rules and regulations.

Filling Vacancies

Current law requires the commission to fill any vacancy for a state marshal position with an applicant who is an elector in the county where the vacancy occurs. The bill further requires that the county where the vacancy occurred must also be the applicant's permanent place of abode.

Under current law, the applicant for the vacancy must be subject to the application and investigation requirements of the commission. Under the bill, the applicant must also be subject to the commission's examination and bonding requirements. The bill also requires the commission to adopt regulations for the examination and bonding requirements for filling vacancies, as it does under existing law for the

application requirements.

Rules on Timely Payments

The bill requires the rules the commission adopts to conduct its internal affairs to also provide for timely payment from the Judicial Department to state marshals that conforms with existing law regarding agency timely payments.

By law, payment is considered timely if (1) a check or warrant is mailed or delivered on the date specified for the amount specified in the applicable contract documents, or, if no date is specified, within 45 days of receipt of a properly completed claim or receipt of goods and services, whichever is later; or (2) for any amount that is required to be withheld under state or federal law, a check or warrant is mailed or delivered in the proper amount on the date the amount may be released under the applicable law.

The law requires that whenever a department or agency fails to make a timely payment the department or agency must pay interest at a rate equal to the monthly effective yield for the state treasurer’s Short Term Investment Fund, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel.

§ 6 — STATE MARSHAL ADVISORY BOARD

The bill makes changes to the member selection process of the 24-member State Marshals Advisory Board and tasks the board with additional duties.

Under current law, between November 9 and November 14, the state marshals in each county must annually elect from among the state marshals in their county a specified number of state marshals to serve on the board. The bill expands the annual selection window to the entire month of November and eliminates provisions that specifically address the current selection process.

The bill instead requires the board to:

1. adopt rules as it deems necessary to conduct its internal affairs,

including procedures to select a chairperson and other officers as may be necessary, from the board's members; and

2. annually, in the month of December, hold a meeting and select two state marshals to be appointed as ex-officio members of the State Marshal Commission for a one-year term and fill any vacancy of the appointment with a state marshal.

It also repeals an obsolete provision.

§ 10 — DISCLOSURE OF PERSONAL INFORMATION BY DMV

Current law allows the DMV commissioner to disclose personal information from a motor vehicle record to state marshals performing their duties. The bill allows the DMV commissioner to also disclose operator photos. Under the bill the information may be requested and provided electronically instead of by facsimile transmission as under current law.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 33 Nay 2 (04/01/2024)