

---

## OLR Bill Analysis

sHB 5379 (as amended by House "A")\*

### ***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, including the following:

1. reduces the number of state marshals appointed in each county (§ 3);
2. increases a state marshal's required amount of personal liability insurance and bond (§§ 1 & 8);
3. 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);
4. adds to the activities prohibited by state marshals' professional standards (e.g., knowingly making a false or illegal return of process) (§§ 6 & 10);
5. gives the State Marshal Commission access to a deceased or disabled state marshal's trust account to turn it over to a successor marshal (§ 7);
6. makes changes to the State Marshal Commission regarding filling vacancies and adopting rules related to timely payments (§ 4);
7. changes the member selection process of the 24-member State Marshals Advisory Board and gives the board additional duties (§ 5);

8. allows the Department of Motor Vehicles (DMV) commissioner to disclose operators' photos to state marshals (§ 9); and
9. repeals an obsolete provision that previously allowed high sheriffs to apply for appointment as a state marshal (§ 11).

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

EFFECTIVE DATE: October 1, 2024

\*House Amendment "A" eliminates a provision in the underlying bill that changed state marshals' status from independent contractors to appointed state officers who are not state employees.

### **§ 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**

<i>County</i>	<i>Appointments Under Current Law</i>	<i>Appointments Under the Bill</i>
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
<b>Total</b>	<b>318</b>	<b>230</b>

### **§ 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 that the personal liability insurance 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.

Under existing law, unchanged by the bill, "tortious act" generally means negligent acts, errors, or omissions for which a state marshal may become legally obligated to pay any damages if committed while making or attempting to make an arrest or against a person under arrest (e.g., false arrest or imprisonment).

#### **§ 8 — BOND AMOUNT**

The bill increases, from \$10,000 to \$100,000, the bond amount that each state marshal must give the State Marshal Commission before starting their duties. 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 the person authorized to receive money collected on behalf or account of someone.

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 after collecting the money, regardless of the dollar amount.

Additionally, the bill establishes a new time frame and requirements for money collected through 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 through a personal check than specified under the law.

By law, a state marshal who does not comply with these requirements or an agreement, as applicable, is liable to the person for interest at a rate of 5% per month from the date on which the state marshal received the money.

## **§ 7 — 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 these audits. As under existing law, information obtained by the commission from these audits is confidential and not subject to disclosure under the Freedom of Information Act.

### ***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 render an accounting to the commission. The bill requires the commission to do so within 30 days after the death or disability.

Upon the death or disability of a state marshal, the bill authorizes the commission, through a letter signed by 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, 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, which must apply to the Superior Court for an order compelling compliance.

## **§§ 6 & 10 — 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 (§ 10)***

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.

## **§ 4 — 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 commission's application and investigation requirements. The bill additionally subjects the applicant to the commission's examination and bonding requirements and requires the commission to adopt regulations for these requirements. (Existing law requires it to adopt regulations for its application and investigation requirements.)

***Rules on Timely Payments***

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

Generally, payment is considered timely if 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. Delayed payments must include interest (CGS § 4a-71).

**§ 5 — STATE MARSHALS 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 the marshals in the county a specified number 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. It instead requires the board to 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.

Additionally, the bill requires the board to hold an annual meeting in December to select two state marshals to be appointed as ex-officio members of the State Marshal Commission for a one-year term. The board must also fill any vacancies in these appointments.

**§ 9 — 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 commissioner to also disclose operator photos. It also allows the information to 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)