



House of Representatives

General Assembly

File No. 537

February Session, 2024

Substitute House Bill No. 5379

House of Representatives, April 17, 2024

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

1 Section 1. Subsection (a) of section 6-30a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective October*
3 *1, 2024*):

4 (a) [On and after December 1, 2000, each] Each state marshal shall
5 carry personal liability insurance for damages caused by reason of such
6 state marshal's tortious acts in not less than the following amounts: (1)
7 For damages caused to any one person or to the property of any one
8 person, [one hundred] two hundred fifty thousand dollars; and (2) for
9 damages caused to more than one person or to the property of more
10 than one person, [three] five hundred thousand dollars. On and after
11 January 1, 2025, such personal liability insurance shall be a policy with
12 a renewal date and a term of coverage commencing on October first of
13 each year and extending through September thirtieth of the following

14 year. For the purpose of this subsection, "tortious act" means negligent
15 acts, errors or omissions for which a state marshal may become legally
16 obligated to any damages for false arrest, erroneous service of civil
17 papers, false imprisonment, malicious prosecution, libel, slander,
18 defamation of character, violation of property rights or assault and
19 battery if committed while making or attempting to make an arrest or
20 against a person under arrest, but does not include any such act unless
21 committed in the performance of the official duties of such state
22 marshal.

23 Sec. 2. Section 6-35 of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective October 1, 2024*):

25 A state marshal shall pay, ~~over,~~ to the person authorized to receive
26 ~~[it] such payment,~~ any money collected by such state marshal on behalf
27 of or on account of such person not later than thirty calendar days from
28 the date of collection of the money. ~~[or upon the collection of one~~
29 ~~thousand dollars or more on behalf of or on account of such person,~~
30 ~~whichever first occurs, except that the state]~~ Notwithstanding the
31 provisions of this section, when any money collected by a state marshal
32 on behalf of a person authorized to receive the payment is in the form
33 of a personal check, the state marshal shall expeditiously deposit such
34 check into the marshal's noninterest-bearing trustee account and
35 payment to the person authorized to receive such check shall be not later
36 than forty days after the date on which the personal check was collected.
37 In addition, a state marshal and such person may agree to a different
38 time [for paying over] frame for the payment of such money from the
39 time frames prescribed in this section. A state marshal who fails to
40 comply with the requirements of this section or any such agreement, as
41 applicable, shall be liable to such person for the payment of interest on
42 the money at the rate of five per cent per month from the date on which
43 such state marshal received the money.

44 Sec. 3. Section 6-38 of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective October 1, 2024*):

46 The number of state marshals to be appointed for Hartford County

47 shall not exceed ~~[seventy-two]~~ sixty-two; for New Haven County, ~~[sixty-~~
48 ~~two]~~ fifty-five; for New London County, ~~[thirty-eight]~~ twenty; for
49 Fairfield County, ~~[fifty-five]~~ fifty; for Windham County, ~~[eighteen]~~
50 seven; for Litchfield County, ~~[thirty]~~ thirteen; for Middlesex County,
51 ~~[twenty-one]~~ thirteen; for Tolland County, ~~[twenty-two]~~ ten.

52 Sec. 4. Subsection (a) of section 6-38a of the general statutes is
53 repealed and the following is substituted in lieu thereof (*Effective October*
54 *1, 2024*):

55 (a) For the purposes of the general statutes, "state marshal" means a
56 qualified deputy sheriff incumbent on June 30, 2000, under section 6-38~~a~~
57 as amended by this act, or appointed pursuant to section 6-38~~b~~, as
58 amended by this act, who ~~[shall have]~~ has authority to provide legal
59 execution and service of process in the counties in this state pursuant to
60 section 6-38, as amended by this act, ~~[as an independent contractor]~~ who
61 is compensated on a fee for service basis, which is determined [,] subject
62 to any minimum rate promulgated by the state, by agreement with an
63 attorney, court or public agency requiring execution or service of
64 process. A state marshal shall not be deemed a state employee, but
65 instead shall be an appointed state officer whose exclusive method of
66 compensation related to the marshal's statutory duties is prescribed in
67 this section.

68 Sec. 5. Section 6-38b of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2024*):

70 (a) There is established a State Marshal Commission which shall
71 consist of eight members appointed as follows: (1) The Chief Justice
72 shall appoint one member who shall be a judge of the Superior Court;
73 (2) the speaker of the House of Representatives, the president pro
74 tempore of the Senate, the majority and minority leaders of the House
75 of Representatives and the majority and minority leaders of the Senate
76 shall each appoint one member; and (3) the Governor shall appoint one
77 member who shall serve as chairperson. Of the seven members
78 appointed pursuant to subdivisions (2) and (3) of this subsection, no
79 more than four of such members may be members of any state bar. No

80 member of the commission shall be a state marshal, except that two state
81 marshals appointed by the State Marshals Advisory Board in
82 accordance with section 6-38c, as amended by this act, shall serve as ex-
83 officio, nonvoting members of the commission.

84 (b) The chairperson shall serve for a three-year term and all
85 appointments of members to replace those whose terms expire shall be
86 for terms of three years.

87 (c) If any vacancy occurs on the commission, the appointing authority
88 having the power to make the initial appointment under the provisions
89 of this section shall appoint a person for the unexpired term in
90 accordance with the provisions of this section.

91 (d) Members shall serve without compensation but shall be
92 reimbursed for actual expenses incurred while engaged in the duties of
93 the commission.

94 (e) The commission, in consultation with the State Marshals Advisory
95 Board, shall (1) adopt regulations in accordance with the provisions of
96 chapter 54 to establish professional standards, including training
97 requirements and minimum fees for execution and service of process,
98 and (2) implement policies and procedures to increase state marshal
99 participation in the serving of *capias* [mittimus] orders. Such policies
100 and procedures may require that at all times a certain minimum
101 percentage of the overall number of state marshals be actively engaged
102 in the service of *capias* [mittimus] orders.

103 (f) The commission shall be responsible for the equitable assignment
104 of service of restraining orders to the state marshals in each county and
105 ensure that such restraining orders are served expeditiously. Failure of
106 any state marshal to accept for service any restraining order assigned by
107 the commission or to serve such restraining order expeditiously without
108 good cause shall be sufficient for the convening of a hearing for removal
109 under subsection (i) of this section.

110 (g) Any vacancy in the position of state marshal in any county as

111 provided in section 6-38, as amended by this act, shall be filled by the
112 commission with an applicant (1) who shall be an elector in the county
113 where such vacancy occurs, and (2) whose permanent place of abode is
114 in the county where such vacancy occurs. Any applicant for such
115 vacancy shall be subject to the application, examination, bonding and
116 investigation requirements of the commission.

117 (h) Except as provided in section 6-38f, no person may be a state
118 marshal and a state employee at the same time. This subsection does not
119 apply to any person who was both a state employee and a deputy sheriff
120 or special deputy sheriff on April 27, 2000.

121 (i) No state marshal may be removed except by order of the
122 commission for cause after due notice and hearing.

123 (j) The commission, in consultation with the Judicial Department,
124 shall adopt rules as it deems necessary for conduct of its internal affairs,
125 including, but not limited to, rules that provide for: (1) The provision of
126 timely, consistent and reliable access to a state marshal for persons
127 applying for a restraining order under section 46b-15; (2) the provision
128 of services to persons with limited English proficiency; (3) the provision
129 of services to persons who are deaf or hard of hearing; [and] (4) service
130 of process that is a photographic copy, micrographic copy or other
131 electronic image of an original document that clearly and accurately
132 copies such original document; and (5) timely payment, as described in
133 section 4a-71, from the Judicial Department to state marshals.

134 (k) The commission shall adopt regulations, in accordance with the
135 provisions of chapter 54, for the application, examination, bonding and
136 investigation requirements for filling vacancies in the position of state
137 marshal.

138 [(k)] (l) The commission shall be within the Department of
139 Administrative Services, provided the commission shall have
140 independent decision-making authority.

141 Sec. 6. Section 6-38c of the general statutes is repealed and the

142 following is substituted in lieu thereof (*Effective October 1, 2024*):

143 (a) There is established a State Marshals Advisory Board which shall
144 consist of twenty-four state marshals. [Between November 9, 2000, and
145 November 14, 2000, and annually thereafter] Annually, in the month of
146 November, the state marshals in each county shall elect from among the
147 state marshals in their county the following number of state marshals to
148 serve on the board: Hartford, New Haven and Fairfield counties, four
149 state marshals; New London and Litchfield counties, three state
150 marshals; and Tolland, Middlesex and Windham counties, two state
151 marshals. State marshals elected to serve on the board shall serve for a
152 term of one year and may be reelected.

153 [(b) On or after April 27, 2000, the Chief Court Administrator shall
154 designate a date and time for the state marshals in each county to come
155 together for the purpose of electing state marshals from each county to
156 serve on the State Marshals Advisory Board pursuant to subsection (a)
157 of this section. A majority of the filled state marshal positions in each
158 county shall constitute a quorum for that county. The election of state
159 marshals to serve on the board shall be by majority vote. The names of
160 the state marshals elected in each county shall be forwarded to the Chief
161 Court Administrator. The Chief Court Administrator, upon receipt of
162 the election results from all counties, shall designate a date and time for
163 the first meeting of the board to take place as soon as practicable after
164 November 14, 2000.]

165 (b) The State Marshals Advisory Board shall adopt rules as the board
166 deems necessary for the conduct of its internal affairs, which rules shall
167 continue in effect from year to year, as amended from time to time. Such
168 rules shall include procedures for selection of a chairperson and other
169 officers as may be necessary, from the members of the board elected
170 pursuant to subsection (a) of this section. Annually, in the month of
171 December, the State Marshals Advisory Board shall hold a meeting and
172 select two state marshals to be appointed as ex-officio members of the
173 State Marshal Commission, in accordance with the provisions of section
174 6-38b, as amended by this act, for a term of one year. If any vacancy

175 occurs in such appointments, the State Marshals Advisory Board shall
176 appoint a state marshal to fill the remainder of the unexpired term.

177 Sec. 7. Section 6-38d of the general statutes is repealed and the
178 following is substituted in lieu thereof (*Effective October 1, 2024*):

179 No state marshal shall (1) knowingly bill for, or receive fees for, work
180 that such state marshal did not actually perform, (2) unlawfully allow
181 another person to serve process in the place of such state marshal, or (3)
182 knowingly make a false or illegal return of process. Any violation of this
183 section without good cause shall be sufficient for the convening of a
184 commission hearing concerning removal of the state marshal under
185 subsection (i) of section 6-38b, as amended by this act.

186 Sec. 8. Section 6-38e of the general statutes is repealed and the
187 following is substituted in lieu thereof (*Effective October 1, 2024*):

188 (a) The State Marshal Commission shall periodically review and
189 audit the records and accounts of the state marshals. [Upon] In addition,
190 the commission shall conduct audits of the records and accounts of state
191 marshals pertaining to the collection of money by a state marshal upon
192 (1) the receipt of a written complaint that is signed by the person filing
193 such complaint, or (2) a complaint filed on behalf of the commission. An
194 audit conducted pursuant to subdivision (1) or (2) of this subsection
195 shall be prioritized by the commission.

196 (b) Not later than thirty days after the death or disability of a state
197 marshal, the commission shall appoint a qualified individual to oversee
198 and audit the records and accounts of such state marshal and render an
199 accounting to the commission.

200 (c) Upon the death or disability of a state marshal, the commission,
201 through its chairperson, may direct any financial institution, as defined
202 by section 52-367a, with access to, or custody of, financial accounts of a
203 state marshal utilized for the collection of moneys under chapters 204
204 and 906, to turn over such financial accounts to a successor state marshal
205 appointed by the commission. A letter signed by the commission

206 chairperson shall constitute an order of the commission pursuant to this
207 subsection. If any person or financial institution refuses to comply with
208 such order, the commission shall certify the facts relating to the
209 noncompliance to the Office of the Attorney General, who shall apply
210 to the Superior Court for an order compelling compliance.

211 (d) All information obtained by the commission from any audit
212 conducted pursuant to this section shall be confidential and shall not be
213 subject to disclosure under the Freedom of Information Act, as defined
214 in section 1-200.

215 Sec. 9. Section 6-39 of the general statutes is repealed and the
216 following is substituted in lieu thereof (*Effective October 1, 2024*):

217 Each state marshal, before entering upon the duties of a state marshal,
218 shall give to the State Marshal Commission a bond in the sum of [ten]
219 one hundred thousand dollars conditioned that such state marshal will
220 faithfully discharge the duties of state marshal and answer all damages
221 which any person sustains by reason of such state marshal's
222 unfaithfulness or neglect. The premium for said bonds shall be paid by
223 the state. No state marshal shall collect tax warrants for the state or any
224 municipality until such state marshal executes a bond in the sum of one
225 hundred thousand dollars.

226 Sec. 10. Subsection (f) of section 14-10 of the general statutes is
227 repealed and the following is substituted in lieu thereof (*Effective October*
228 *1, 2024*):

229 (f) The commissioner may disclose personal information from a
230 motor vehicle record to:

231 (1) Any federal, state or local government agency in carrying out its
232 functions or to any individual or entity acting on behalf of any such
233 agency, or

234 (2) Any individual, organization or entity that signs and files with the
235 commissioner, under penalty of false statement as provided in section
236 53a-157b, a statement on a form approved by the commissioner,

237 together with such supporting documentation or information as the
238 commissioner may require, that such information will be used for any
239 of the following purposes:

240 (A) In connection with matters of motor vehicle or driver safety and
241 theft, motor vehicle emissions, motor vehicle product alterations, recalls
242 or advisories, performance monitoring of motor vehicles and dealers by
243 motor vehicle manufacturers, motor vehicle market research activities
244 including survey research, motor vehicle product and service
245 communications and removal of nonowner records from the original
246 owner records of motor vehicle manufacturers to implement the
247 provisions of the federal Automobile Information Disclosure Act, 15
248 USC 1231 et seq., the Clean Air Act, 42 USC 7401 et seq., and 49 USC
249 Chapters 301, 305 and 321 to 331, inclusive, as amended from time to
250 time, and any provision of the general statutes enacted to attain
251 compliance with said federal provisions;

252 (B) In the normal course of business by the requesting party, but only
253 to confirm the accuracy of personal information submitted by the
254 individual to the requesting party;

255 (C) In connection with any civil, criminal, administrative or arbitral
256 proceeding in any court or government agency or before any self-
257 regulatory body, including the service of process, an investigation in
258 anticipation of litigation by an attorney-at-law or any individual acting
259 on behalf of an attorney-at-law and the execution or enforcement of
260 judgments and orders, or pursuant to an order of any court provided
261 the requesting party is a party in interest to such proceeding;

262 (D) In connection with matters of motor vehicle or driver safety and
263 theft, motor vehicle emissions, motor vehicle product alterations, recalls
264 or advisories, performance monitoring of motor vehicles and motor
265 vehicle parts and dealers, producing statistical reports and removal of
266 nonowner records from the original owner records of motor vehicle
267 manufacturers, provided the personal information is not published,
268 disclosed or used to contact individuals except as permitted under
269 subparagraph (A) of this subdivision;

270 (E) By any insurer or insurance support organization or by a self-
271 insured entity or its agents, employees or contractors, in connection
272 with the investigation of claims arising under insurance policies,
273 antifraud activities, rating or underwriting;

274 (F) In providing any notice required by law to owners or lienholders
275 named in the certificate of title of towed, abandoned or impounded
276 motor vehicles;

277 (G) By an employer or its agent or insurer to obtain or verify
278 information relating to a holder of a passenger endorsement or
279 commercial driver's license required under 49 USC Chapter 313, and
280 sections 14-44 to 14-44m, inclusive;

281 (H) In connection with any lawful purpose of a labor organization, as
282 defined in section 31-77, provided (i) such organization has entered into
283 a contract with the commissioner, on such terms and conditions as the
284 commissioner may require, and (ii) the information will be used only for
285 the purposes specified in the contract other than campaign or political
286 purposes;

287 (I) For bulk distribution for surveys, marketing or solicitations
288 provided the commissioner has obtained the express consent of the
289 individual to whom such personal information pertains;

290 (J) For the purpose of preventing fraud by verifying the accuracy of
291 personal information contained in a motor vehicle record, including an
292 individual's photograph or computerized image, as submitted by an
293 individual to a legitimate business or an agent, employee or contractor
294 of a legitimate business, provided the individual has provided express
295 consent in accordance with subdivision (5) of subsection (a) of this
296 section;

297 (K) Inclusion of personal information about persons who have
298 indicated consent to become organ and tissue donors in a donor registry
299 established by a procurement organization, as defined in section 19a-
300 289a;

301 (L) By any private detective or private detective licensed in
302 accordance with the provisions of chapter 534, in connection with an
303 investigation involving matters concerning motor vehicles;

304 (M) By a state marshal, for use in the performance of duties under the
305 provisions of section 6-38a, as amended by this act. Such information,
306 including operator photos, may be requested [by facsimile
307 transmission] electronically, or by such other means as the
308 commissioner may require, and shall be provided [by facsimile
309 transmission] electronically, or by such other means, within a
310 reasonable time.

311 Sec. 11. Section 6-39a of the general statutes is repealed and the
312 following is substituted in lieu thereof (*Effective October 1, 2024*):

313 (a) A state marshal shall not be charged any fee by a private entity for
314 performing such state marshal's statutory duties.

315 (b) No state marshal, as a matter of practice, shall receive, direct,
316 transfer, control or solicit process from an attorney at law, for which the
317 state marshal cannot lawfully serve within the state marshal's appointed
318 precinct or extension of precinct in accordance with section 52-56.

319 Sec. 12. Section 6-38n of the general statutes is repealed. (*Effective*
320 *October 1, 2024*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	6-30a(a)
Sec. 2	<i>October 1, 2024</i>	6-35
Sec. 3	<i>October 1, 2024</i>	6-38
Sec. 4	<i>October 1, 2024</i>	6-38a(a)
Sec. 5	<i>October 1, 2024</i>	6-38b
Sec. 6	<i>October 1, 2024</i>	6-38c
Sec. 7	<i>October 1, 2024</i>	6-38d
Sec. 8	<i>October 1, 2024</i>	6-38e
Sec. 9	<i>October 1, 2024</i>	6-39
Sec. 10	<i>October 1, 2024</i>	14-10(f)

Sec. 11	<i>October 1, 2024</i>	6-39a
Sec. 12	<i>October 1, 2024</i>	Repealer section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes various changes to the statutes regarding state marshals, has no fiscal impact to the state or municipalities. The increase from \$10,000 to \$100,000 for a state marshal's required amount of personal liability bond conforms to current practice.

The Out Years

State Impact: None

Municipal Impact: None

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

<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
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)