Senate

General Assembly

File No. 734

January Session, 2025

Substitute Senate Bill No. 1330

Senate, April 23, 2025

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING AN ACCIDENTAL FAILURE TO FILE AN ACTION.

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

Section 1. Section 52-592 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2025*):

(a) If any action, commenced within the time limited by law, has failed one or more times to be tried on its merits because of insufficient service or return of the writ due to unavoidable accident or the default or neglect of the officer to whom it was committed, or because the action has been dismissed for want of jurisdiction, or the action has been otherwise avoided or defeated by the death of a party or for any matter of form; or if, in any such action after a verdict for the plaintiff, the judgment has been set aside, or if a judgment of nonsuit has been rendered or a judgment for the plaintiff reversed, the plaintiff, or, if the plaintiff is dead and the action by law survives, his executor or administrator, may commence a new action, except as provided in subsection (b) of this section, for the same cause at any time within one

year after the determination of the original action or after the reversal of the judgment. For purposes of this section, receipt in the underlying action of the summons and complaint by the defendant or the defendant's agent or representative, including the defendant's insurer obligated to defend the action, shall be a sufficient, but not exclusive means to constitute commencement of the action.

(b) When any action has been brought against an executor or administrator or continued against an executor or administrator after the death of the defendant and has failed for any of the causes listed in subsection (a) of this section, the plaintiff, or his executor or administrator in case a cause of action survives, may commence a new action within six months after the determination of the original action.

(c) If an appeal is had from any such judgment to the Supreme Court or Appellate Court, the time the case is pending upon appeal shall be excluded in computing the time as above limited.

(d) The provisions of this section shall apply to any defendant who files a cross complaint in any action, and to any action between the same parties or the legal representatives of either of them for the same cause of action or subject of action brought to any court in this state, either before dismissal of the original action and its affirmance or within one year after the dismissal and affirmance, and to any action brought to the United States circuit or district court for the district of Connecticut which has been dismissed without trial upon its merits or because of lack of jurisdiction in such court. If such action is within the jurisdiction of any state court, the time for bringing the action to the state court shall commence from the date of dismissal in the United States court, or, if an appeal or writ of error has been taken from the dismissal, from the final determination of the appeal or writ of error.

(e) The provisions of this section shall apply to any claim against the state for which a notice of claim has been properly and timely filed with the Office of the Claims Commissioner in accordance with sections 4-147 and 4-148 and which thereafter has been dismissed by the Office of the Claims Commissioner pursuant to section 4-142.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2025*	52-592

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 makes clarifying changes to the "accidental failure of suit" law which is not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sSB 1330

AN ACT CONCERNING AN ACCIDENTAL FAILURE TO FILE AN ACTION.

SUMMARY

The state's "accidental failure of suit" law generally authorizes a new lawsuit to be filed within one year after a case was dismissed because of certain reasons unrelated to the merits, even though the statute of limitations has expired. For this law to apply, the original case must have been commenced within the statute of limitations.

This bill provides that, for purposes of this law, a defendant's receipt of the summons and complaint in the underlying case is a sufficient way to constitute the case's commencement, but not the only way (see BACKGROUND). It specifically applies not just to receipt by defendants but also by their agents or representatives, including insurers obligated to defend the case.

EFFECTIVE DATE: October 1, 2025

BACKGROUND

Accidental Failure of Suit Law

This law (sometimes also called the "savings" statute) applies to cases dismissed due to lack of jurisdiction, problems with service, the death of a party, or a matter of form. The one-year period is reduced to six months if the dismissed case was against an executor or administrator of a defendant who has died.

Related Case

A recent state Supreme Court case considered whether a plaintiff had commenced his original lawsuit within the time allowed by law under the accidental failure of suit statute. In the underlying case (involving a

motor vehicle accident), a state marshal left a copy of the summons and complaint at the defendant's former property and the plaintiff's attorney notified the defendant's automobile insurer. But neither the defendant nor her power of attorney received a copy of the summons and complaint until after the statute of limitations had expired.

After the trial court dismissed the case for improper service, the plaintiff refiled the case under the accidental failure of suit law. On appeal, the state Supreme Court ruled that a case is ''commenced'' for purposes of the accidental failure of suit law when a defendant has actual or effective notice of the action by receiving the summons and complaint within the time permitted by law, even if the process was improperly served (*Laiuppa* v. *Moritz*, 350 Conn. 457 (2024)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 41 Nay 0 (04/04/2025)