

CHAPTER 53*

CLAIMS AGAINST THE STATE

*Cited. 166 C. 251. The legislative intent expressed by this chapter is that an employee is immune when the state is sued and that the state may be sued in instances where a private person would be liable. 168 C. 563. The immunity conferred and the liability assumed by the state under this chapter was not intended to extend to the acts and omissions of a public defender which arise during the course of the attorney-client relationship and over which the state has no right of control. Id. Without its consent, state is immune from suit for liability; Conn. Const. Art. XI, Sec. 4 and this chapter provided for adjudication of claims against the state with its permission. 172 C. 603, 604. Cited. 177 C. 268, 272, 273. Chapter does not apply to teachers in local school systems. 180 C. 96, 100, 101. Cited. 186 C. 300, 301. Cited. 191 C. 222, 229, 230. Cited. 195 C. 534, 538. Cited. 204 C. 17, 34. Cited. 212 C. 415, 420, 423, 424, 426. Secs. 4-141-4-165b cited. Id. Secs. 4-141-4-165b cited. 216 C. 85, 88. Sec. 4-141 et seq. cited. 227 C. 545, 565. Cited. 238 C. 146. Cited. 239 C. 265. On claim for money damages, plaintiffs must seek waiver from claims commissioner before bringing action against state in Superior Court regardless of whether plaintiffs have alleged that state officers acted in excess of statutory authority. 265 C. 301. When plaintiff brings action for money damages against state, he must proceed through office of the claims commissioner pursuant to chapter 53; otherwise, the action will be dismissed for lack of subject matter jurisdiction under doctrine of sovereign immunity. Id., 338. Chapter delegated to claims commissioner duty formerly held by legislature to review all claims against state for monetary damages. Chapter pertains exclusively to claims for monetary damages against state. 271 C. 96.

Cited. 12 CA 449, 453. Secs. 4-141-4-165b cited. 41 CA 61, 64.

Cited. 36 CS 293, 294.

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Intentionally excluded for brevity: Sec. 4-142.. Through Sec. 4-164a. Commissioner exempt from certain provisions of Uniform Administrative Procedure Act.

Sec. 4-165. Immunity of state officers and employees from personal liability.

Intentionally excluded for brevity: Sec. 4-165a. Transitional provisions.- Sec. 4-165b. Claims against the state by inmates of state correctional and reformatory institutions.

Sec. 4-141. Definitions. As used in this chapter: "Claim" means a petition for the payment or refund of money by the state or for permission to sue the state; "just claim" means a claim which in equity and justice the state should pay, provided the state has caused damage or injury or has received a benefit; "person" means any individual, firm, partnership, corporation, limited liability company, association or other group, including political subdivisions of the state; "state agency" includes every department, division, board, office, commission, arm, agency and institution of the state government, whatever its title or function; and "state officers and employees" includes every person elected or appointed to or employed in any office, position or post in the state government, whatever such person's title, classification or function and whether such person serves with or without remuneration or compensation, including judges of probate courts, employees of such courts and special limited conservators appointed by such courts pursuant to section 17a-543a. In addition to the foregoing, "state officers and employees" includes attorneys appointed as victim compensation commissioners, attorneys appointed by the Public Defender Services Commission as public defenders, assistant public defenders or deputy assistant public defenders and attorneys appointed by the court as special assistant public defenders, the Attorney General, the Deputy Attorney General and any associate attorney general or assistant attorney general, any other attorneys employed by any state agency, any commissioner of the Superior Court

hearing small claims matters or acting as a fact-finder, arbitrator or magistrate or acting in any other quasi-judicial position, any person appointed to a committee established by law for the purpose of rendering services to the Judicial Department, including, but not limited to, the Legal Specialization Screening Committee, the State-Wide Grievance Committee, the Client Security Fund Committee, the advisory committee appointed pursuant to section 51-81d and the State Bar Examining Committee, any member of a multidisciplinary team established by the Commissioner of Children and Families pursuant to section 17a-106a, and any physicians or psychologists employed by any state agency. "State officers and employees" shall not include any medical or dental intern, resident or fellow of The University of Connecticut when (1) the intern, resident or fellow is assigned to a hospital affiliated with the university through an integrated residency program, and (2) such hospital provides protection against professional liability claims in an amount and manner equivalent to that provided by the hospital to its full-time physician employees.

(1959, P.A. 685, S. 1; P.A. 76-371, S. 1, 5; P.A. 80-153, S. 1; 80-197, S. 1; P.A. 84-74, S. 1, 2; P.A. 85-152, S. 1; P.A. 86-110; P.A. 91-349, S. 1, 8; P.A. 93-310, S. 28, 32; P.A. 95-79, S. 8, 189; P.A. 96-246, S. 23; P.A. 99-215, S. 1; P.A. 04-160, S. 4; 04-257, S. 2; May Sp. Sess. P.A. 04-2, S. 19.)

History: P.A. 76-371 included public defenders or assistant public defenders appointed by public defenders services commission, attorney general, deputy attorney general, assistant attorneys general and any other attorney appointed by state agency and physicians and psychologists employed by state agencies in definition of "state officers and employees"; P.A. 80-153 included commissioners of superior court hearing small claims matters in definition of "state officers and employees"; P.A. 80-197 included deputy assistant public defenders and special assistant public defenders as state officers and employees; P.A. 84-74 included any "associate attorney general" in the definition of state officers and employees; P.A. 85-152 included fact-finders, arbitrators, magistrates, persons in quasi-judicial positions and certain appointees rendering service to the judicial department in definition of "state officers and employees"; P.A. 86-110 included judges of probate court and employees of such courts in definition of "state officers and employees"; P.A. 91-349 added exception to the definition of state officers and employees for medical and dental interns, residents and fellows of The University of Connecticut; P.A. 93-310 added "attorneys appointed as victim compensation commissioners", effective July 1, 1993; P.A. 95-79 redefined "person" to include a limited liability company, effective May 31, 1995; P.A. 96-246 included members of multidisciplinary team established by Commissioner of Children and Families in definition of "state officers and employers"; P.A. 99-215 included the State-Wide Grievance Committee and the Client Security Fund Committee in the definition of "state officers and employees" and made technical changes; P.A. 04-160 added provision re special limited conservators appointed pursuant to Sec. 17a-543a; P.A. 04-257 made technical changes, effective June 14, 2004; May Sp. Sess. P.A. 04-2 added provision re advisory committee appointed pursuant to Sec. 51-81d and made technical changes.

Teacher in local school system does not come within definition. 180 C. 96, 100. Cited. 186 C. 300, 301. Cited. 189 C. 550, 555, 556. Cited. 190 C. 622, 623. Cited. 204 C. 17, 35, 37. Cited. 207 C. 59, 66. Cited. 216 C. 85, 89. Plaintiffs in their role as foster parents were "employees" of the state as that term is used in this section. 238 C. 146. Cited. 239 C. 265. "Claim" means petition for permission to sue state for payment or refund of money. 271 C. 96.

Cited. 40 CA 460, 463.

Cited. 26 CS 24. Cited. 40 CS 251, 253.

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Sec. 4-165. Immunity of state officers and employees from personal liability. No state officer or employee shall be personally liable for damage or injury, not wanton, reckless or malicious, caused in the discharge of his duties or within the scope of his employment. Any person having a complaint for such damage or injury shall present it as a claim against the state under the provisions of this chapter. For the purposes of this section, "scope of employment" shall include, but not be limited to, representation by an attorney appointed by the Public Defender Services Commission as a public defender, assistant public defender or deputy assistant public defender or an attorney appointed by the court as a special assistant public defender of an indigent accused or of a child on a petition of delinquency, representation by such other attorneys, referred to in section 4-141, of state officers and employees in actions brought against such officers and employees in their official and individual capacities, the discharge of duties as a trustee of the state employees retirement system, the discharge of duties of a commissioner of the Superior Court hearing small claims matters or acting as a fact-finder, arbitrator or magistrate or acting in any other quasi-judicial position, and the discharge of duties of a person appointed to a committee established by law for the purpose of rendering services to the Judicial Department, including, but not limited to, the Legal Specialization Screening Committee, the State-Wide Grievance Committee, the Client Security Fund Committee, the advisory committee appointed pursuant to section 51-81d and the State Bar Examining Committee; provided such actions arise out of the discharge of the duties or within the scope of employment of such officers or employees. For the purposes of this section, members or employees of the soil and water district boards established pursuant to section 22a-315 shall be considered state employees.

(1959, P.A. 685, S. 25; P.A. 76-371, S. 2, 5; P.A. 80-153, S. 2; 80-197, S. 2; 80-394, S. 6, 13; P.A. 83-464, S. 1, 5; 83-533, S. 45, 54; P.A. 84-45, S. 1, 2; 84-397, S. 2, 7; 84-546, S. 10, 173; P.A. 85-152, S. 2; P.A. 99-215, S. 2; P.A. 04-257, S. 3; May Sp. Sess. P.A. 04-2, S. 20.)

History: P.A. 76-371 defined "scope of employment" for purposes of section; P.A. 80-153 added performance of duties of superior court commissioner in hearing small claims matter to definition of "scope of employment"; P.A. 80-197 included representation by assistant public defenders or court-appointed special assistant public defender in definition of "scope of employment"; P.A. 80-394 included court security officers as state employees for purposes of section; P.A. 83-464 replaced "performance of his duties" with "discharge of his duties" and replaced "wilful" with "reckless or malicious"; P.A. 83-533 amended section to include performance of duties as a trustee of the state employees' retirement system; P.A. 84-45 included members or employees of the soil and water district boards as state employees for purposes of section; P.A. 84-397 deleted provision that included court security officers as state employees for purposes of section; P.A. 84-546 made technical change substituting "discharge" for "performance" of duties; P.A. 85-152 included discharge of duties of commissioner of superior court acting as fact-finder, arbitrator, magistrate or in other quasi-judicial position and discharge of certain appointees rendering services to judicial department in definition of "scope of employment"; P.A. 99-215 added phrase "including, but not limited to, the Legal Specialization Screening Committee, the State-Wide Grievance Committee, the Client Security Fund Committee and the State Bar Examining Committee"; P.A. 04-257 made technical changes, effective June 14, 2004; May Sp. Sess. P.A. 04-2 added provision re advisory committee appointed pursuant to Sec. 51-81d and made technical changes.

See Sec. 5-141d re indemnification of state officers and employees.

See Sec. 10-235 re indemnification of teachers and certain educational board members and employees.

See Sec. 19a-24 re indemnification of health-related personnel.

Section does not apply to teachers in local school systems. 180 C. 96, 100, 101. Specific language of this statute prevails over general language of Sec. 31-293a as applied to fellow state employees. 185 C. 616, 618, 620, 621, 624. Cited. 186 C. 300, 301. Cited. 187 C. 53, 63, 65. Issue of unconstitutionality of statute not resolved at this time because it was not properly before the court. 189 C. 550-555, 558, 559. Cited. 209 C. 679, 689. Cited. 210 C. 531, 544. Cited. 229 C. 479, 480, 484, 486, 487, 489, 498-500. Cited. 234 C. 539, 569.

Plaintiffs in their role as foster parents were "employees" of the state as that term is used in this section. 238 C. 146. Wanton, reckless or malicious actions are of highly unreasonable conduct, a vast departure from what is viewed as ordinary care and without concern of risk of safety to others or the disregarding of other's rights. 253 C. 134. Action against police officers for alleged misconduct while they sought to arrest plaintiff, execute search warrant and conduct search was barred by immunity provision of this section because such actions were within the scope of the officers' employment and plaintiff did not show that their conduct was wanton, reckless or malicious. 261 C. 372. Provision of statutory immunity to state employees has twofold purpose: To avoid placing a burden on state employment and to make clear that remedy available to plaintiff who has suffered harm from negligence of a state employee acting in the scope of his or her employment must bring a claim under the provisions of ch. 53. 265 C. 301.

Cited. 12 CA 449, 453. Cited. 40 CA 460, 462-464, 467. Where plaintiff's suit against a state officer was dismissed due to immunity under this section, the two-year statute of limitations in Sec. 52-584 applies in subsequent suit against state and the exception under Sec. 52-593 for failure to name the right person as defendant does not apply. 62 CA 545. If defendant has established a defense of sovereign immunity, it is not necessary to demonstrate compliance with this section. 64 CA 433. Standard in statute is inapplicable because liability under statute only applies when defendant has not established a defense of sovereign immunity. 67 CA 613. Defendants cannot avail themselves of immunity under section when they acted intentionally to underreport plaintiff's qualifications for tenure position at state university. 69 CA 106. Common law sovereign immunity does not bar claim against state agency where suit is brought under statute against state officers and employees in their personal capacity. 74 CA 264.

Cited. 33 CS 546, 548.

Cited. 4 Conn. Cir. Ct. 119.

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Sec. 4-165a. Transitional provisions. Section 4-165a is repealed, effective October 1, 2002.

(P.A. 75-605, S. 24, 27; S.A. 02-12, S. 1.)