

Legislative History for Connecticut Act

HB6476	PA 03-224	- 2003
Senate	4124-4125, 4149-4150	4
House	5442-5453	12
Judiciary	1897-1899, 1962-1965	7
		23

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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S-487

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2003

VOL. 46

PART 13

3836-4130

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? Senator Aniskovich. Have all members voted? If all members have voted, the machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on passage of Substitute H.B. 6426.

Total number voting, 36. Necessary for passage, 19. Those voting yea, 35; those voting nay, 1. Those absent and not voting, 0.

THE CHAIR:

The bill is passed.

THE CLERK:

Calendar page 10, Calendar 560, File 574 and 809, Substitute for H.B. 6476 An Act Concerning State Marshals, as amended by House Amendment Schedules "A" and "B". Favorable Report of the Committees on Judiciary, Appropriations and Government Administration and Elections.

THE CHAIR:

Senator McDonald.

SEN. MCDONALD:

Thank you, Madam President. Madam President, I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

The question is on passage in concurrence. Will you remark?

SEN. MCDONALD:

Madam President, this bill addresses several issues relating to the state marshals system and makes certain modifications in the way that state marshals collect fees, serve service of process and report information relating to their activities to the State Marshal's Commission and the State Marshal's Advisory Board.

I suggest that the circle would be well served in passage of this bill.

And, Madam President, if there's no objection, may this item be placed on the Consent Calendar.

THE CHAIR:

Thank you, Senator McDonald. Motion is refer this item to the Consent Calendar. Without objection, so ordered.

THE CHAIR:

Calendar Page 12, Calendar 168, Files 228 and 638,

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the Consent Calendar and I will renew the motion after adoption of that Consent Calendar.

Thank you, Madam President.

THE CHAIR:

Thank you, Sir. Mr. Clerk, would you please announce a roll call vote on the Consent Calendar and call that Calendar.

THE CLERK:

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

An immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, Consent Calendar No. 3, those items that were previously placed on Consent Calendar No. 3 begin on Calendar Page 4, Calendar 506, Substitute for H.B. 5549.

Calendar Page 5, Calendar 524, H.B. 6683.

Calendar Page 7, Calendar 547, H.B. 5810.

And Calendar Page 10, Calendar 560, Substitute for H.B. 6476.

Madam President, that completes those items previously placed on the Third Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. Would you again announce a roll call vote. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 3.

Total number voting, 36. Necessary for passage, 19. Those voting yea, 36; those voting nay, 0. Those absent and not voting, 0.

THE CHAIR:

The Consent Calendar is adopted.

Senator Looney.

SEN. LOONEY:

Yes, thank you very much, Madam President. Madam President, I will now move for immediate transmittal to the House of Representative of all items requiring

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transmittal to the Senate of those items previously acted upon by the House and still needing action by that body.

DEPUTY SPEAKER HYSLOP:

Seeing no objection, the rules are suspended, the items are transmitted immediately.

Any announcements or points of personal privileges?

If not, the Chamber will stand at ease.

(Chamber at ease.)

DEPUTY SPEAKER HYSLOP:

The House will come back to order.

Clerk, please call Calendar 396.

CLERK:

On page 23, Calendar 396, Substitute for H.B. 6476, AN ACT CONCERNING STATE MARSHALS. Favorable Report of the Committee on Government Administration and Elections.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99<sup>TH</sup>)

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will you

remark?

REP. LAWLOR: (99<sup>TH</sup>)

Thank you, Mr. Speaker. This bill or substantial parts of it, have been before this Chamber in previous sessions. Just a brief bit of history, I think everyone remembers that in a very substantial way we reorganized the system by which process is served in our State and established a State Marshal Commission and also established a State Marshal's Advisory Board.

This bill is attempting to address a number of concerns that were raised in the aftermath of that major reorganization. Most of these are not very substantive, however, will make it easier for the marshals to carry out their responsibilities and for the Commission to conduct the oversight that is called for under the reforms of a number of years ago.

First of all, Mr. Speaker, the bill would allow a State Marshal who is collecting money on behalf of a creditor to work out a special agreement with the creditor with regard to the delivery of the money. In some cases, the wage garnishments or attachments are for very small incremental amounts, several dollars per week or per month. This would allow the Marshal to accumulate the money with the agreement of the creditor and pay it on a periodic basis.

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Also, Mr. Speaker, during the reform a number of years ago, the intent was not to, in any way, take a Marshal's badge away from anyone who had been acting as a Deputy Sheriff, although under the new reform there was a prohibition for state employees to also be State Marshals. There was a specific understanding that the then state employees who were also Deputy Sheriffs could continue on in that capacity. This bill clarifies that and makes it explicit that persons who held a badge prior to that time could continue on, notwithstanding the fact that they are currently state employees.

Under the new reforms, Mr. Speaker, there are periodic audits of the State Marshal's business accounts which are conducted by the State Marshal Commission. One of the concerns raised was whether or not that proprietary information, the list of clients and the amount of business done with individual clients would become public. The concern is and I think it's understandable, Mr. Speaker, in effect, the marshals compete with one another for business under certain circumstances and it would be an unfair advantage to a competitor to have all the information regarding clients and the type of business done with specific clients.

So the audits would continue, Mr. Speaker, however, the audits themselves would not be FOI'able and not

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available under the Freedom of Information Act. However, the Commission would conduct the audits. This is a similar procedure, I would point out, to the periodic audits on attorneys' trust funds accounts, which are conducted as part of the oversight of attorneys. The information in those trust fund accounts is confidential for the clients of the attorneys. However, it is an important public purpose to conduct these audits.

Also, Mr. Speaker, it requires the State Marshal's Advisory Board, that's sort of the union, if you will, of the State Marshals themselves to, each fiscal year, submit a request to the Commission for whatever administrative support they feel they would need to conduct their activities. They're, in effect, an advisory board to the Commission. It's our hope that the Commission itself can be informed by the front line marshals about how to appropriately regulate and administer that process.

It makes some relatively technical change in the method of serving process under certain circumstances. Nothing has been objected to, that I'm aware of, Mr. Speaker. It increases some of the process fees. One of the potential fiscal impacts on that will be addressed in a subsequent amendment, Mr. Speaker. And it requires officers acting as State Marshals who are taking people

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into custody, these are typically persons who have an arrearage on child support payments, it requires them, when they're being taken into custody, if there is a courthouse lockup available, to take custody of those persons and then the marshals would be obligated to bring the person to that lockup and therefore freeing the marshal for their other responsibilities during the course of a day.

There are a variety of other technical changes in here, Mr. Speaker. A great deal of the pages involved in the bill are because there's reference in the current laws to banking institutions. That change is being made to financial institutions to conform it with other changes in the statutes that have taken place in recent years.

Mr. Speaker, that, in essence is the bill. The Clerk has LCO number 6889. I'd ask the Clerk call and I be allowed to summarize.

DEPUTY SPEAKER HYSLOP:

Clerk, please call LCO 6889, to be designated House "A" and the Representative has asked leave to summarize.

CLERK:

LCO number 6889, House "A" offered by  
Representative Lawlor.

DEPUTY SPEAKER HYSLOP:

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Representative Lawlor.

REP. LAWLOR: (99<sup>TH</sup>)

Thank you, Mr. Speaker. This inserts an additional exception to the fee increase called for under the bill for notification of the Office of the Attorney General in dissolution and post-judgment proceedings if a party or child is receiving public assistance.

The reason for this, Mr. Speaker, is, first of all, these notifications are taking place as a matter of course, notwithstanding the involvement of a marshal. However, to require the service and provide this fee in the future, did generate a fiscal note and so this eliminates that particular problem and I would urge adoption, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

The question is on adoption of House "A". Will you remark on House "A"? Will you remark on House "A"? If not, we'll try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed. The ayes have it, House "A" is adopted.

Will you remark further on the bill, as amended?

gmh

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REP. LAWLOR: (99<sup>TH</sup>)

Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99<sup>TH</sup>)

The Clerk has LCO number 7034. I would ask the Clerk to call and I be allowed to summarize.

DEPUTY SPEAKER HYSLOP:

The Chamber will stand at ease. We don't have it.

(Chamber at ease.)

DEPUTY SPEAKER HYSLOP:

Clerk, please call LCO 7034, to be designated House "B" and the Representative has asked leave to summarize.

CLERK:

LCO number 7034, House "B" offered by  
Representative Piscopo.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99<sup>TH</sup>)

Thank you, Mr. Speaker. Mr. Speaker, this amendment creates a new proviso that a marshal may make such service by mail only to an address within the officer's jurisdiction. This is to honor the longstanding division of marshal jurisdiction among the eight counties of our state.

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I urge adoption.

DEPUTY SPEAKER HYSLOP:

The question is on adoption of House "B". Will you remark on House "B"? Will you remark on House "B"?

Representative Lawlor, did you -- you just urged adoption. Would you move to adopt, please?

REP. LAWLOR: (99<sup>TH</sup>)

I urge adoption, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Would you just move to adopt? Just say, move to adopt, please.

REP. LAWLOR: (99<sup>TH</sup>)

I move to adopt.

DEPUTY SPEAKER HYSLOP:

Thank you. Appreciate it. Will you remark on House "B"? Will you remark on House "B"?

If not, we'll try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed. The ayes have it, House "B" is adopted.

Will you remark further on the bill, as amended?

Will you remark further on the bill, as amended?

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Representative Stone of the 9<sup>th</sup>.

REP. STONE: (9<sup>TH</sup>)

Thank you, Mr. Speaker. And I just rise very briefly to urge my colleagues to support this bill. And I just want to make particular note of a section that was added by the Judiciary Committee dealing with the collection of child support in Section 15 of the bill.

This provides that for a protocol between state marshals and judicial marshals for the transportation of either commonly referred to as deadbeat dads or deadbeat moms who are not paying child support. This enables the state marshals to go out, collect these individuals and bring them to a courthouse lockup and have them transferred directly to a judicial marshal.

Years ago when this program was in place, the revenue to the State of Connecticut, in just one year, was upwards of \$500,000 in collecting back child support that was owed to either individual obliges or to the State of Connecticut as a payor of support for minor children.

So, this will -- this establishes the protocol and I just want to thank the representatives from the Judicial Department and the State Marshals for working out this arrangement and really, in effect, reinstating this program by establishing this protocol.

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I urge adoption and passage of the bill.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill, as amended?

Will you remark further on the bill, as amended? If not

-- Representative Dyson.

REP. DYSON: (94<sup>TH</sup>)

Thank you, Mr. Speaker. I'm just curious about something. Does this bill address the need of service for restraining orders?

DEPUTY SPEAKER HYSLOP:

Are you posing that question to Representative Lawlor, sir?

REP. DYSON: (94<sup>TH</sup>)

Yes.

DEPUTY SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99<sup>TH</sup>)

Thank you, Mr. Speaker. The Representative is referring to the -- at one time there was a problem with ensuring that service of process takes place in restraining order cases. I believe that was handled administratively by the Commission. I believe a new system has been established and as far as I know, there have been no complaints since that new system has been

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established. But I believe there is now a system to ensure that there's always a marshal on call or available at a courthouse to take those restraining orders or whatever and ensure that they're served, but I do believe that was worked out after considerable back and forth involving a variety of people, but I think ultimately and this is at least a year ago or so, a new system was devised and is up and running and I'm not aware that there's any particular complaints with regard to that system.

Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill, as amended?

Will you remark further on the bill, as amended?

If not, staff and guests to the Well of the House, the machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER HYSLOP:

Have all members voted? If all members have voted, please check the machine and make sure your vote is properly recorded. The machine will be locked and the Clerk will take a tally.

gmh

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The Clerk will announce the tally.

CLERK:

H.B. 6476, as amended by House Amendment Schedules  
"A" and "B"

Total Number Voting	145
Necessary for Passage	73
Those voting Yea	145
Those voting Nay	0
Those absent and not Voting	5

DEPUTY SPEAKER HYSLOP:

The bill, as amended passes.

Clerk, please call Calendar 137.

CLERK:

On page 3, Calendar 137, Substitute for H.B. 6588,  
AN ACT CONCERNING WINE ORDERED WITH RESTAURANT MEALS.  
Favorable Report of the Committee on General Law.

DEPUTY SPEAKER HYSLOP:

Representative Fox.

REP. FOX: (144<sup>TH</sup>)

Thank you, Mr. Speaker. I move acceptance of the  
Joint Committee's Favorable Report and passage of the  
bill.

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will you  
remark, sir?

JOINT  
STANDING  
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2003

STEVE ECKER: Thank you very much for your time.

SEN. MCDONALD: The next speaker is Judge Kimes, followed by Velma Williams.

JUDGE JOHN KIMES: Thank you. I'm Judge John Kimes from New Canaan. I was recently elected Judge of the District of New Canaan.

I think the speakers before me have covered everything that concerned me. I would only encourage the committee to remove Section 10 of S.B. 1054 which would allow the Probate Court Administrator to set salaries. I don't believe that we should have him macro-managing the local courts and I would favor the amendment that Judge Pearl suggested on Section 7 of raised H.B. 6558 which would allow him to spend what remains of the Probate Court Administration Fund on buildings for reasons not restricted to consolidation.

And with those two concerns, I thank you for allowing me to talk.

SEN. MCDONALD: Thank you. Any questions for Judge Kimes? Thank you very much, Judge.

The next speaker is Velma Williams, followed by Judge Buhl.

VELMA WILLIAMS: Good evening. My name is Velma Williams and I'm a Library Service Assistant at Yale University Medical Library. I've worked for Yale University for approximately twenty years and six months.

I am speaking in support of H.B. 6131, AN ACT CONCERNING THE LEGAL RATE OF INTEREST.

I feel very honored and privileged to stand here in representation of the workers, family members of workers, and patients that have been patients of Yale New Haven Hospital and myself who have had wages garnished, savings taken away, and in my case, my house was placed in foreclosure by Yale New Haven Hospital.

two other judges who are permanently cited as standby. So, for instance, I just -- they can't find me. And something has to be done right now, one of those judges can be contacted and they can deal with it.

REP. FARR: Thank you.

SEN. MCDONALD: Thank you. Any other questions? Thank you very much.

The next speaker is Millie Cruz, followed by Tom Hennick. Neither Millie Cruz nor Tom Hennick. There you go. Okay.

Then after Mr. Hennick will be Levon Jones. Is Levon Jones here? Then it would be Bob Gyle. Is Bob Gyle here? Then it would be Jay Jackson. Mr. Jackson is here. Okay, please proceed.

THOMAS HENNICK: Good afternoon. My name is Tom Hennick. I'm the Public Education Officer at the Freedom of Information Commission.

I've given you written testimony, so I'll try to be brief.

I'm here on behalf of the Commission to oppose Section 4, lines 44 through 47 of raised H.B. 6476.

That section would withhold from public disclosure all information obtained by the State Marshal Commission contained in audits of State Marshals. And the way we see it, rendering that audit information confidential would set a dangerous policy precedent.

The Commission is a public agency. The Marshals are public employees, and Connecticut law very clearly states that the public has a right to monitor the activities of its public agencies and its employees and we think that shielding the audits of the Marshals' activities from the public would fly directly in the face of the law as well as the basic tenant of our government, about open government.

We don't find a need for special treatment in this case. Audits prepared by the Auditors of Public Accounts are not exempt from disclosure and the audits of the Marshals, in our opinion, shouldn't be either.

Really, that's about all we have to say. To allow the audits of the activities to land out of the public domain, we just think would be a bad idea.

I'll be happy to answer any questions you might have.

SEN. MCDONALD: Thank you. Any questions? Representative Lawlor.

REP. LAWLOR: Thank you. Good afternoon. I just had a question, you know attorneys' trust accounts are audited periodically. Do you know if those audits are subject to disclosure publicly?

THOMAS HENNICK: I don't know. I can find out.

REP. LAWLOR: I don't think so. That's why I'm saying. I think -- I mean, other types of audits of what, in essence, are private accounts are made public, do you know? Because attorneys are officers of the court, technically and licensed by the State, technically.

THOMAS HENNICK: If it's a court record, we wouldn't have jurisdiction over that.

REP. LAWLOR: I know you don't have jurisdiction, I'm just saying we're trying to balance -- it's like a hybrid, this marshal job. You have a state authority to conduct a business, but in reality, it's a private business where you have competitors, etcetera and I think one of the concerns here is the confidentiality of what otherwise would be private business records. So I think that's the --

THOMAS HENNICK: That's where the --

REP. LAWLOR: Yeah.

THOMAS HENNICK: We were viewing it more as the public

business.

REP. LAWLOR: I think it's analogous like, for example, we make disclosures as legislators, even though in theory, at least, this is a part-time legislature. So we have other private business interests and we have that confidential type of filing that we submit. And I think that was the concept behind it, to clarify.

THOMAS HENNICK: Okay.

REP. LAWLOR: But thank you.

THOMAS HENNICK: Thank you.

SEN. MCDONALD: Thank you. Any other questions? Thank you very much.

THOMAS HENNICK: Thank you.

SEN. MCDONALD: The next speaker is Jay Jackson, followed by Barton Russell.

JAY JACKSON: Good afternoon, Senator McDonald, SB 375 SB 1058  
Representative Lawlor, and members of the  
committee.

My name is Jay W. Jackson. I'm an attorney in Hartford, Connecticut and I'm here representing the Connecticut Medical Insurance Company, which is a medical malpractice company insuring about two-thirds of the doctors in Connecticut.

As well, I'm here for the National Association of Independent Insurers which is a trade organization representing over 700 insurance companies.

At a time of crisis in the medical malpractice field, we should not be thinking of making the interest rate, which is already onerous, even more onerous. We should be looking at a reasonable rate of interest. The 12% which was set up and established in 1981, under Section 52-192a, established at a time when I think the prime rate was at 14 or 15 percent. We all know what's happened in interest rates subsequently.

# Legal Assistance Resource Center of Connecticut, Inc.

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H.B. 6476 -- State marshals  
Judiciary Committee public hearing -- March 10, 2003  
Testimony of Raphael L. Podolsky

Recommended Committee action: **TECHNICAL AMENDMENT TO  
SECTION 11**

For clarity, the sentence which begins on line 246 should be rephrased to read as follows:

Any service of process on the employer or other notice to the employer required under this section may be made in accordance with section 52-57, as amended by this act, or by certified mail, return receipt requested.

Section 11 permits the service of wage executions on the employer by certified mail. While the present wording of C.G.S. 52-361a (the section affected by the bill) does not seem to cover service on anyone else, C.G.S. 52-361a(d) does require the employer to give notice of the wage execution to the employee by either delivering it directly or by sending it regular first-class mail. The new language is presumably not intended to cover that notice or any other notice to the employee under the law. The insertion of the requested phrase would eliminate any ambiguity.

**STATEMENT IN OPPOSITION TO HOUSE BILL NO. 6476****AN ACT CONCERNING STATE MARSHALS**

The Freedom of Information Commission, while ambivalent about most of Raised House Bill 6476, opposes the bill because of Section 4, Lines 44-47. That section reads as follows:

The State Marshal Commission shall periodically review and audit the records and accounts of the state marshals. Upon the death or disability of a state marshal, the commission shall appoint a qualified individual to oversee and audit the records and accounts of such state marshal and render an accounting to the commission. All information obtained by the commission from any audit conducted pursuant to this section shall be confidential and shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200.

Rendering the audit information "confidential" makes little sense and would set a dangerous public policy precedent. Aren't the marshals public employees? Doesn't the public have a right to know what their activities have been? Wouldn't the audit shed light on their activities? In addition, the State Marshal Commission is a public agency. Why should its audits of the marshals be shielded from public scrutiny? Audits prepared by the Auditors of Public Accounts are not exempt from disclosure. Shouldn't the Marshal Commission and the public servants it oversees perform their duties in full view of the public?

The Freedom of Information Act was created to ensure government transparency and government accountability at all levels. To allow audits of the activities of state marshals to land out of the public domain would be a serious blow to good, accountable government. The FOI Commission urges rejection of this bill, or at least, the deletion of lines 44-47.

Contact: Thomas A. Hennick, Public Education Officer, Freedom of Information Commission. (860) 566-5682

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**CONNECTICUT STATE MARSHAL'S ASSOCIATION, INC.**  
Post Office Box 340647  
Hartford, CT 06134-0647

To: The Members of the Judiciary Committee:  
From: The Connecticut State Marshals Association  
Robert Miller, President

We urge you to vote in favor of Raised Bill Number 6476 being heard today March 10, 2003. Passage of this bill is important to the future of the Marshal System. Passage of this bill is important to the future of the Marshal System. Some of the highlights and reasons we believe passage is important are:

1. Lengthening of Statute of Limitations on Summons and Mechanic's Liens.

Reason:

This will enable the Marshal to have additional 30 days to locate and serve defendants which will lessen the intense pressure on the Marshal to get it served on time and save the suit from being dismissed.

2. Service on municipal boards, commissions & individual employees of such employees of such entities by service upon the Town, City or Borough Clerk.

Reason:

This will save the employee's and board chairpersons from getting served at home and at work including police officers.

3. Mailing of Wage Executions.

Reason:

Most companies would prefer to receive them by certified mail as it is an inconvenience to see the Marshal personally, and in the case of large companies they see us very often and this inconvenience will be remedied.

4. Service of Subpoenas on Physicians by service on their Office Manager.

Reason:

This will alleviate the inconvenience of having to serve the physician in the midst of his or her seeing patients.

5. Increase of Fees for Executions to 15% and raising minimum to \$30.00 from \$20.00.

Reason:

This raise is the first raise in 13 years and will bring the fees in line with the minimum that collection agencies charge. Since the vast majority of executions are both small in uncollectible as the Marshals expend much effort, time and money trying to collect these debts and make no money at all.

6. Increase of fees on additional services not at same address.

Reason:

This will be an increase on small percentage of services that involve service at different addresses. Many of the additional services involve searching for new addresses in far away places. This will give the Marshal some remuneration for locating these individuals or companies and going in some cases, 5 or 6 times attempting service, going to post offices, tax assessors and collectors, etc... This will not effect landlords as all of those services on summary process eviction actions are served at one address. Also fees for service of foreclosure papers, where all the tenants are named at one address will not be raised.

Thank you for your consideration.

Robert S. Miller  
President