



General Assembly

February Session, 2020

**Raised Bill No. 5054**

LCO No. 924



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

**AN ACT CONCERNING LIABILITY OF A POLITICAL SUBDIVISION  
AND ITS EMPLOYEES, OFFICERS AND AGENTS.**

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

1 Section 1. Section 52-557n of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 (a) (1) Except as otherwise provided by law, a political subdivision of  
4 the state shall be liable for damages to person or property caused by: (A)  
5 The negligent acts or omissions of such political subdivision or any  
6 employee, officer or agent thereof acting within the scope of his or her  
7 employment or official duties; (B) negligence in the performance of  
8 functions from which the political subdivision derives a special  
9 corporate profit or pecuniary benefit; and (C) acts of the political  
10 subdivision which constitute the creation or participation in the creation  
11 of a nuisance; provided, no cause of action shall be maintained for  
12 damages resulting from injury to any person or property by means of a  
13 defective road or bridge except pursuant to section 13a-149. (2) Except  
14 as otherwise provided by law, a political subdivision of the state shall  
15 not be liable for damages to person or property caused by: (A) Acts or  
16 omissions of any employee, officer or agent which constitute criminal  
17 conduct, fraud, actual malice or wilful misconduct; or (B) negligent acts

18 or omissions which require the exercise of judgment or discretion as an  
19 official function of the authority expressly or impliedly granted by law.

20 (b) Notwithstanding the provisions of subsection (a) of this section, a  
21 political subdivision of the state or any employee, officer or agent acting  
22 within the scope of his or her employment or official duties shall not be  
23 liable for damages to person or property resulting from: (1) The  
24 condition of natural land or unimproved property; (2) the condition of  
25 a reservoir, dam, canal, conduit, drain or similar structure when used  
26 by a person in a manner which is not reasonably foreseeable; (3) the  
27 temporary condition of a road or bridge which results from weather, if  
28 the political subdivision has not received notice and has not had a  
29 reasonable opportunity to make the condition safe; (4) the condition of  
30 an unpaved road, trail or footpath, the purpose of which is to provide  
31 access to a recreational or scenic area, if the political subdivision has not  
32 received notice and has not had a reasonable opportunity to make the  
33 condition safe; (5) the initiation of a judicial or administrative  
34 proceeding, provided that such action is not determined to have been  
35 commenced or prosecuted without probable cause or with a malicious  
36 intent to vex or trouble, as provided in section 52-568; (6) the act or  
37 omission of someone other than an employee, officer or agent of the  
38 political subdivision; (7) the issuance, denial, suspension or revocation  
39 of, or failure or refusal to issue, deny, suspend or revoke any permit,  
40 license, certificate, approval, order or similar authorization, when such  
41 authority is a discretionary function by law, unless such issuance,  
42 denial, suspension or revocation or such failure or refusal constitutes a  
43 reckless disregard for health or safety; (8) failure to make an inspection  
44 or making an inadequate or negligent inspection of any property, other  
45 than property owned or leased by or leased to such political subdivision,  
46 to determine whether the property complies with or violates any law or  
47 contains a hazard to health or safety, unless the political subdivision had  
48 notice of such a violation of law or such a hazard or unless such failure  
49 to inspect or such inadequate or negligent inspection constitutes a  
50 reckless disregard for health or safety under all the relevant  
51 circumstances; (9) failure to detect or prevent pollution of the

52 environment, including groundwater, watercourses and wells, by  
53 individuals or entities other than the political subdivision; or (10)  
54 conditions on land sold or transferred to the political subdivision by the  
55 state when such conditions existed at the time the land was sold or  
56 transferred to the political subdivision. For purposes of this subsection,  
57 "all the relevant circumstances" includes a consideration of the balance  
58 between the magnitude of the danger and the burden of performing an  
59 inspection.

60 (c) Any person who serves as a member of any board, commission,  
61 committee or agency of a municipality and who is not compensated for  
62 such membership on a salary or prorated equivalent basis, shall not be  
63 personally liable for damage or injury occurring on or after October 1,  
64 1992, resulting from any act, error or omission made in the exercise of  
65 such person's policy or decision-making responsibilities on such board,  
66 commission, committee or agency if such person was acting in good  
67 faith, and within the scope of such person's official functions and duties,  
68 and was not acting in violation of any state, municipal or professional  
69 code of ethics regulating the conduct of such person, or in violation of  
70 subsection (a) of section 9-369b or subsection (b) or (c) of section 1-206.  
71 The provisions of this subsection shall not apply if such damage or  
72 injury was caused by the reckless, wilful or wanton misconduct of such  
73 person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2020	52-557n

**Statement of Purpose:**

To clarify the meaning of "all the relevant circumstances" as used in subdivision (8) of subsection (b) of section 52-557n of the general statutes.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*