
OLR Bill Analysis

sSB 1330 (File 734, as amended by Senate "A")*

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 the defendant's purported insurer allegedly obligated to defend the case.

The bill specifies that its provisions, and the existing provisions of the accidental failure of suit law, do not:

1. designate an insurer as an agent for service of process on the purported insured's behalf;
2. affect the requirements of formal service under law or court rules;
3. obligate the insurer to serve any complaint or other legal action on the purported insured;
4. remove the plaintiff's obligation to properly serve process on the purported insured within the accidental failure of suit law's time frames; or
5. affect whether the served insurer owes a duty to defend or to provide indemnity coverage to the purported insured.

The bill further specifies that the served insurer's actions or omissions cannot be deemed an admission or relevant as to whether the insurer owes such a duty.

Lastly, the bill specifies that its provisions (and existing law's provisions) apply solely to the question of whether a case was timely brought for purposes of this savings provision under law.

*Senate Amendment "A" adds provisions specifying the scope of the bill (e.g., that it does not affect formal service requirements) and makes minor changes.

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)