
SENATE BILL 5531

State of Washington

52nd Legislature

1991 Regular Session

By Senators Nelson and Rasmussen; by request of Dept. of Social & Health Services.

Read first time February 5, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to tort liability for professionals employed in
2 psychiatric facilities; amending RCW 71.05.120; and creating a new
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature intends to reduce the
6 escalating cost of civil tort claims while ensuring that the general
7 interest and safety of the public are being served.

8 The legislature specifically recognizes that state and local
9 governments face increasing risk of exposure in the area of mental
10 health and intends to reduce and control this exposure by providing
11 public agencies with limited immunity for discretionary acts and
12 decisions occurring in the performance of these duties.

13 The legislature also recognizes that because the distinction
14 between negligence and gross negligence is unclear, many claims
15 currently filed against public entities are going to trial.

1 **Sec. 2.** RCW 71.05.120 and 1989 c 120 s 3 are each amended to read
2 as follows:

3 (1) No officer of a public or private agency, nor the
4 superintendent, professional person in charge, his or her professional
5 designee, or attending staff of any such agency, nor any public
6 official performing functions necessary to the administration of this
7 chapter, nor peace officer responsible for detaining a person pursuant
8 to this chapter, nor any county designated mental health professional,
9 nor the state, a unit of local government, or an evaluation and
10 treatment facility shall be civilly or criminally liable for performing
11 duties pursuant to this chapter with regard to the decision of whether
12 to admit, release, administer antipsychotic medications on an emergency
13 basis, or detain a person for evaluation and treatment: PROVIDED, That
14 such duties were performed in good faith (~~and without gross~~
15 ~~negligence~~)).

16 (2) This section does not relieve a person from giving the required
17 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn
18 or to take reasonable precautions to provide protection from violent
19 behavior where the patient has communicated an actual threat of
20 physical violence against a reasonably identifiable victim or victims.
21 The duty to warn or to take reasonable precautions to provide
22 protection from violent behavior is discharged if reasonable efforts
23 are made to communicate the threat to the victim or victims and to law
24 enforcement personnel.