

# HOUSE BILL ANALYSIS

## HB 2590

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**Title:** An act relating to actions against state officers, employees, volunteers, or foster parents.

**Brief Description:** Clarifying grounds for actions against state officers, employees, volunteers, and foster parents.

**Sponsors:** Representatives Mielke, Boldt, Smith and Clements.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Staff:** Trudes Hutcheson (786-7384).

**Background:** The attorney general acts as legal counsel for the state, as required by statute. A person injured by a state employee's actions or omissions may sue the state employee for damages.

A state employee sued for damages arising from acts or omissions while performing, or in good faith purporting to perform, official duties may ask the attorney general to defend the action at state expense. If the attorney general finds that the employee's acts or omissions were, or were purported to be, in good faith and performed within the scope of the employee's official duties, the attorney general must grant the employee's request. When the attorney general has represented a state employee and a court has entered a judgment against the employee, the judgment creditor must seek satisfaction only from the state.

The term good faith— does not have a concrete meaning and is not defined in statute. Rather, good faith— is generally understood to encompass an honest belief, an absence of malice, good intention, and a faithfulness to one's duty or obligation.

Negligence is the failure to use such care as a reasonably prudent person would use under similar circumstances. One acts negligently if one does something that a reasonable person would not do, or fails to do something that a reasonable person would do. The actor need not have any malicious intentions to be negligent.

**Summary of Bill:** A state employee may request that the state defend him or her in an action for damages, and the attorney general must grant the request if the employee's acts or omissions were within the employee's official duties, were in good faith, and without negligence.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

Office of Program Research