

SENATE BILL REPORT

SB 6170

As of January 27, 2000

Title: An act relating to actions against churches.

Brief Description: Clarifying when actions may be maintained against a church.

Sponsors: Senators Fairley and Franklin.

Brief History:

Committee Activity: Judiciary: 2/2/2000.

SENATE COMMITTEE ON JUDICIARY

Staff: Dick Armstrong (786-7460)

Background: In a recent court case, plaintiffs (the adult children of the former pastor of the church) sought to collect damages from the church because the plaintiffs were sexually molested as children by a deacon of the church when the deacon babysat the plaintiffs at the plaintiffs' home. The plaintiffs asserted that an elder of the church was warned of past sexual improprieties by the church deacon and did not bother to warn the plaintiffs or prevent the church deacon from having contact with the children of the church.

In general, the common law rule is that a person is generally not liable for the criminal acts of third parties. However, a person can be liable for the criminal acts of a third party if a "special relationship" exists between the parties (i.e. school has a duty to protect students on school grounds). The Washington Supreme Court, in allowing this case to be returned for trial for fact finding, held that the church had a duty to take reasonable measures to prevent harm intentionally inflicted on the children by a church worker because of a special relationship— that existed between the church and the children of the congregation, between the church and the perpetrator of the crime (church deacon), because of the church's knowledge of prior sexual misconduct by the deacon, and because of a possible causal connection between the deacon's position in the church and the resulting harm to the children.

The dissenting justices in the case disagreed with the majority ruling because they felt that the church did not have a duty to prevent harm that was a result of a private, nonchurch-related child care arrangement between members of a church congregation. The dissent noted that the molestation did not occur on church property nor during church sponsored activities, and the church did not recommend the deacon as a babysitter.

Summary of Bill: A church cannot be sued for damages resulting from injuries or death caused by an intentional or criminal act of a third party unless the act occurred when one of the following conditions was present:

·
the third party was in a paid or volunteer position and was participating in a church-sponsored activity or performing church-related duties; or

- the victim was on the premises of the church; or
- the victim was in the custody of the church; or
- the victim was participating in an activity sponsored or organized by the church.

Appropriation: None.

Fiscal Note: Not requested.

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