

HOUSE BILL REPORT

HB 2090

As Reported by House Committee On:
Judiciary

Title: An act relating to causes of action against the department of social and health services for the use or release of false or inaccurate information in department records.

Brief Description: Authorizing causes of action against the department of social and health services for the use or release of false or inaccurate information in department records.

Sponsors: Representatives Carrell, Boldt, Lambert, McMorris, Veloria, Bush, Esser, Ericksen, Lantz, Campbell and Woods.

Brief History:

Committee Activity:

Judiciary: 2/23/01, 2/27/01 [DP].

Brief Summary of Bill

- Authorizes a cause of action for damages against the Department of Social and Health Services for the use or release of false or inaccurate information maintained in department records.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada and Esser.

Minority Report: Do not pass. Signed by 3 members: Representatives Dickerson, Lovick and McDermott.

Staff: Edie Adams (786-7180).

Background:

The Department of Social and Health Services (DSHS) is responsible for administering many state programs and services. Some of the programs and services administered by the DSHS relate to: aging and adult services; children's services, including at-risk-youth,

dependency, and child care; public assistance; medical assistance; developmental disabilities; child support enforcement; and juvenile rehabilitation. Many of these programs or services involve sensitive information concerning involved persons, including, medical records, mental health and chemical dependency records, private personal information, and financial information. There are a myriad of federal and state laws governing confidentiality of various kinds of records kept by the DSHS and when and under what circumstances records may be released.

Summary of Bill:

A person has a cause of action against the DSHS if the department maintains false or inaccurate information about the person that the department knows or reasonably should know is false or inaccurate, and the use or release of the information causes injury to the person. Damages may be recovered for pecuniary loss, emotional distress, and mental anguish.

Appropriation: None.

Fiscal Note: Requested February 27, 2001.

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

Testimony For: Unfounded accusations should not be maintained in the department's files. The department's release of inaccurate information has, in one case, caused the break-up of a marriage and the estrangement of a child. A person should have redress if the department causes the person harm in this manner.

Testimony Against: The bill makes the department a guarantor of the accuracy of all information in its files, not just the ones prepared by the department, such as police records and medical reports. One out of five citizens is a client of the department, and it would take huge staff resources to verify the accuracy of all records. The law currently provides a remedy through a defamation action.

Testified: (In support) Representative Carrell, prime sponsor.

(Opposed) Bernie Friedman, Department of Social and Health Services.