
SENATE BILL 5542

State of Washington

58th Legislature

2003 Regular Session

By Senators Hargrove, Brandland, Schmidt and Winsley

Read first time 01/29/2003. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to the exercise of reasonable care by state
2 employees and its agents at the department of social and health
3 services and the department of corrections; adding new sections to
4 chapter 43.20A RCW; adding new sections to chapter 72.09 RCW; and
5 creating a new section.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.20A RCW
8 to read as follows:

9 In an effort to protect the public health, safety, and welfare, the
10 legislature has authorized and funded programs addressing child and
11 elderly abuse and neglect and criminal offenders. The work undertaken
12 by state employees and agents to deliver these important services
13 requires them to make decisions based upon circumstantial evidence and
14 measurable risk of harm associated with the available competing
15 choices.

16 The legislature is obligated for policy reasons and fiscal
17 responsibility to assure the state is accountable under fair and
18 reasonable standards of negligence. The state cannot guarantee the
19 safety of its citizens, particularly in cases of harm involving the

1 criminal conduct of others. The legislature expects state workers to
2 perform this difficult work nonnegligently, and does not intend to
3 immunize the state for negligence. However, the legislature finds that
4 the citizens of this state should not be liable when the state worker
5 exercises reasonable care.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A RCW
7 to read as follows:

8 The state or a person, individually or in a representative capacity
9 for the state, who is involved in the delivery of social and health
10 services through the department of social and health services, is not
11 liable for selecting one of two or more alternative courses of action
12 even though the course of action chosen results in a poor outcome if
13 the person exercised reasonable care and skill in arriving at the
14 judgment to follow the particular course of action.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 72.09 RCW
16 to read as follows:

17 In an effort to protect the public health, safety, and welfare, the
18 legislature has authorized and funded programs addressing child and
19 elderly abuse and neglect and criminal offenders. The work undertaken
20 by state employees and agents to deliver these important services
21 requires them to make decisions based upon circumstantial evidence and
22 measurable risk of harm associated with the available competing
23 choices.

24 The legislature is obligated for policy reasons and fiscal
25 responsibility to assure the state is accountable under fair and
26 reasonable standards of negligence. The state cannot guarantee the
27 safety of its citizens, particularly in cases of harm involving the
28 criminal conduct of others. The legislature expects state workers to
29 perform this difficult work nonnegligently, and does not intend to
30 immunize the state for negligence. However, the legislature finds that
31 the citizens of this state should not be liable when the state worker
32 exercises reasonable care.

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW
34 to read as follows:

35 The state or a person, individually or in a representative capacity

1 for the state, who is involved in the delivery of services through the
2 department of corrections, is not liable for selecting one of two or
3 more alternative courses of action even though the course of action
4 chosen results in a poor outcome if the person exercised reasonable
5 care and skill in arriving at the judgment to follow the particular
6 course of action.

7 NEW SECTION. **Sec. 5.** Nothing in this act may be construed to
8 limit the application of other statutes specifying a liability standard
9 for the state's employees and agents.

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