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HOUSE BILL 2164

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Kagi and Dickerson

Read first time 02/21/2005. Referred to Committee on Judiciary.

1            AN ACT Relating to liability arising from acts or omissions of  
2 department of social and health services' workers; adding new sections  
3 to chapter 43.20A RCW; and creating a new section.

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

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

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

14            The legislature is obligated for policy reasons and fiscal  
15 responsibility to assure the state is accountable under fair and  
16 reasonable standards of negligence. The state cannot guarantee the  
17 safety of its citizens, particularly in cases of harm involving the  
18 criminal conduct of others. The legislature expects state workers to  
19 perform this difficult work nonnegligently, and does not intend to

1 immunize the state for negligence. However, the legislature finds that  
2 the citizens of this state should not be liable when the state worker  
3 exercises reasonable care.

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

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

13 NEW SECTION. **Sec. 3.** Nothing in this act may be construed to  
14 limit the application of other statutes specifying a liability standard  
15 for the state's employees and agents.

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