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**SUBSTITUTE SENATE BILL 6852**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Kline, Hargrove, Brandland and Rasmussen)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to tort liability for local and state government  
2 employees, agents, officers, and representatives involved in the  
3 delivery of social, health, correctional, or supervision services;  
4 adding a new section to chapter 4.92 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that it is in the  
7 public interest to limit the liability of state and local governments  
8 for injuries caused by released offenders and other persons who are  
9 being supervised in the community or who are on a community-based  
10 treatment monitoring program. The legislature intends this act to  
11 limit both the class of supervised persons for whom state and local  
12 government can be held liable and the circumstances under which  
13 liability can be imposed.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.92 RCW  
15 to read as follows:

16 (1) For purposes of this section:

17 (a) "Supervised person" means anyone in or on community  
18 supervision, community custody, community placement, misdemeanor

1 probation, or pretrial supervision, including juvenile offenders under  
2 the jurisdiction of the juvenile rehabilitation administration of the  
3 department of social and health services or any successor organization,  
4 anyone subject to a commitment order under chapter 10.77, 70.96A,  
5 71.05, 71.09, or 71.34 RCW, and anyone supervised under chapter 71A.12  
6 RCW, and conditionally released or on a less restrictive alternative.

7 (b) "Dangerous propensities" means the totality of dangerous or  
8 criminal conduct about which the supervising agency, or its officers,  
9 employees, or agents knew regarding the supervised person, including  
10 the following conduct of the supervised person:

11 (i) Violent or threatening criminal conduct, including prior  
12 convictions in this state or another state;

13 (ii) Conduct while in custody; and

14 (iii) Conduct or statements made while on supervision.

15 (c) "Proximate cause" means a cause that, in a direct sequence,  
16 unbroken by any new independent cause, produces a death or injury, and  
17 without which the death or injury would not have happened.

18 (2) Liability for injuries or deaths caused by supervised persons  
19 may be imposed on the state, local governments, and their agencies,  
20 officers, or employees only pursuant to this section. Damages  
21 resulting from the injury-causing conduct are indivisible. The state,  
22 local governments, and their agencies, officers, or employees may be  
23 found liable for personal injuries or deaths caused by supervised  
24 persons only if each of the following elements is present:

25 (a) The injury-causing conduct of the supervised person is  
26 criminal, whether or not a charge has been filed;

27 (b) The criminal act resulting in the injury or death is within the  
28 dangerous propensities of the supervised person;

29 (c) The supervised person has violated those terms of the judgment  
30 and sentence, court orders, or conditions of supervision imposed on the  
31 supervised person which are crime-related prohibitions as defined in  
32 RCW 9.94A.030;

33 (d) The supervising agency or its officers, employees, or agents  
34 knew of behavioral symptoms, conduct, statements, or other  
35 manifestations of an increased likelihood on the part of the supervised  
36 person of committing the act complained of. The supervised person's  
37 failure to take medications that were prescribed for the purpose of  
38 maintaining behavioral control constitutes such a behavioral symptom;

1           (e) The violations of the judgment and sentence, orders, or  
2 conditions of supervision imposed on the supervised person are of a  
3 type that would have resulted in incarceration or restraint on the date  
4 of the conduct that is the subject of the suit if the violation had  
5 been reported to a judicial or quasi-judicial entity with the authority  
6 to incarcerate the supervised person; and

7           (f) The supervising agency or its officers, employees, or agents  
8 failed to exercise reasonable care in the management of the supervised  
9 person, and that failure was the proximate cause of the death or  
10 injury.

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