
HOUSE BILL 1679

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Eddy, Carlyle, Kagi, and Takko

Read first time 01/28/11. Referred to Committee on Judiciary.

1 AN ACT Relating to government liability for supervision of
2 offenders; adding a new section to chapter 4.24 RCW; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature has enacted laws which
6 require the state and local governments to supervise criminal offenders
7 after their release from correctional facilities. These laws have been
8 interpreted by our courts as giving rise to a duty that creates tort
9 liability. The courts have expanded this duty to create liability for
10 offender behavior that is unrelated to the criminal behavior for which
11 the offender was placed on supervision. As the duty has expanded,
12 claims for failure to supervise have increased, and these claims have
13 become unrelated or minimally connected to the offense for which the
14 offender is being supervised. The legislature intends to rebalance
15 this interplay between duty and liability by focusing the state's duty
16 on supervision of the offender for the actual criminal behavior that
17 brought the offender into the criminal justice system and for which it
18 may be properly said that the state has an identifiable duty.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW
2 to read as follows:

3 (1) The state, local governments, and their agencies, officers, and
4 employees, are not liable for injuries caused by an offender under
5 supervision if the offender's act causing the injuries does not have a
6 substantial connection with the criminal act for which the offender is
7 being supervised. A substantial connection exists only if the act
8 resulting in the injury would constitute a criminal act prosecutable
9 under the same chapter of the revised code of Washington as the crime
10 for which the offender is being supervised, or if both the act
11 resulting in the injury and the crime for which the offender is being
12 supervised constitute serious violent offenses as defined by RCW
13 9.94A.030.

14 (2) For the purposes of this section, supervision includes any type
15 of community-based supervision including, but not limited to,
16 probation, parole, community custody, community placement, community
17 supervision, and postrelease supervision.

18 (3) Nothing in this section diminishes any immunity or defense that
19 may otherwise be applicable to the governmental entity or its past or
20 present employees.

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