
SENATE BILL 5605

State of Washington

62nd Legislature

2011 Regular Session

By Senator Hargrove

Read first time 02/01/11. Referred to Committee on Human 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, or a unit of local government or its representatives or
10 agents if acting as an agent of the state, who is involved in the
11 delivery of social and health services through the department of social
12 and health services, is not liable for selecting one of two or more
13 alternative courses of action even though the course of action chosen
14 results in a poor outcome if the person exercised reasonable care and
15 skill in arriving at the judgment to follow the particular course of
16 action.

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

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

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

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

3 The state or a person, individually or in a representative capacity
4 for the state, or a unit of local government or its representatives or
5 agents if acting as an agent of the state, who is involved in the
6 delivery of services through the department of corrections, is not
7 liable for selecting one of two or more alternative courses of action
8 even though the course of action chosen results in a poor outcome if
9 the person exercised reasonable care and skill in arriving at the
10 judgment to follow the particular course of action.

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

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