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SENATE BILL 6187

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State of Washington                      62nd Legislature                      2012 Regular Session

By Senators Pflug, Harper, and Frockt; by request of Attorney General

Read first time 01/13/12. Referred to Committee on Judiciary.

1            AN ACT Relating to claims against the state and governmental  
2 entities arising out of tortious conduct; and amending RCW 4.92.100 and  
3 4.96.020.

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

5            **Sec. 1.** RCW 4.92.100 and 2009 c 433 s 2 are each amended to read  
6 as follows:

7            (1) All claims against the state, or against the state's officers,  
8 employees, or volunteers, acting in such capacity, for damages arising  
9 out of tortious conduct, (~~except for claims involving injuries from~~  
10 ~~health care,~~) shall be presented to the risk management division.  
11 (~~Claims involving injuries from health care are governed solely by the~~  
12 ~~procedures set forth in chapter 7.70 RCW and are exempt from this~~  
13 ~~chapter.~~) A claim is deemed presented when the claim form is  
14 delivered in person or by regular mail, registered mail, or certified  
15 mail, with return receipt requested, to the risk management division.  
16 For claims for damages presented after July 26, 2009, all claims for  
17 damages must be presented on the standard tort claim form that is  
18 maintained by the risk management division. The standard tort claim  
19 form must be posted on the office of financial management's web site.

1 (a) The standard tort claim form must, at a minimum, require the  
2 following information:

3 (i) The claimant's name, date of birth, and contact information;

4 (ii) A description of the conduct and the circumstances that  
5 brought about the injury or damage;

6 (iii) A description of the injury or damage;

7 (iv) A statement of the time and place that the injury or damage  
8 occurred;

9 (v) A listing of the names of all persons involved and contact  
10 information, if known;

11 (vi) A statement of the amount of damages claimed; and

12 (vii) A statement of the actual residence of the claimant at the  
13 time of presenting the claim and at the time the claim arose.

14 (b) The standard tort claim form must be signed either:

15 (i) By the claimant, verifying the claim;

16 (ii) Pursuant to a written power of attorney, by the attorney in  
17 fact for the claimant;

18 (iii) By an attorney admitted to practice in Washington state on  
19 the claimant's behalf; or

20 (iv) By a court-approved guardian or guardian ad litem on behalf of  
21 the claimant.

22 (c) The amount of damages stated on the claim form is not  
23 admissible at trial.

24 (2) The state shall make available the standard tort claim form  
25 described in this section with instructions on how the form is to be  
26 presented and the name, address, and business hours of the risk  
27 management division. The standard tort claim form must not list the  
28 claimant's social security number and must not require information not  
29 specified under this section.

30 (3) With respect to the content of claims under this section and  
31 all procedural requirements in this section, this section must be  
32 liberally construed so that substantial compliance will be deemed  
33 satisfactory.

34 **Sec. 2.** RCW 4.96.020 and 2009 c 433 s 1 are each amended to read  
35 as follows:

36 (1) The provisions of this section apply to claims for damages  
37 against all local governmental entities and their officers, employees,

1 or volunteers, acting in such capacity(~~(, except that claims involving~~  
2 ~~injuries from health care are governed solely by the procedures set~~  
3 ~~forth in chapter 7.70 RCW and are exempt from this chapter)~~).

4 (2) The governing body of each local governmental entity shall  
5 appoint an agent to receive any claim for damages made under this  
6 chapter. The identity of the agent and the address where he or she may  
7 be reached during the normal business hours of the local governmental  
8 entity are public records and shall be recorded with the auditor of the  
9 county in which the entity is located. All claims for damages against  
10 a local governmental entity, or against any local governmental entity's  
11 officers, employees, or volunteers, acting in such capacity, shall be  
12 presented to the agent within the applicable period of limitations  
13 within which an action must be commenced. A claim is deemed presented  
14 when the claim form is delivered in person or is received by the agent  
15 by regular mail, registered mail, or certified mail, with return  
16 receipt requested, to the agent or other person designated to accept  
17 delivery at the agent's office. The failure of a local governmental  
18 entity to comply with the requirements of this section precludes that  
19 local governmental entity from raising a defense under this chapter.

20 (3) For claims for damages presented after July 26, 2009, all  
21 claims for damages must be presented on the standard tort claim form  
22 that is maintained by the risk management division of the office of  
23 financial management, except as allowed under (c) of this subsection.  
24 The standard tort claim form must be posted on the office of financial  
25 management's web site.

26 (a) The standard tort claim form must, at a minimum, require the  
27 following information:

- 28 (i) The claimant's name, date of birth, and contact information;
- 29 (ii) A description of the conduct and the circumstances that  
30 brought about the injury or damage;
- 31 (iii) A description of the injury or damage;
- 32 (iv) A statement of the time and place that the injury or damage  
33 occurred;
- 34 (v) A listing of the names of all persons involved and contact  
35 information, if known;
- 36 (vi) A statement of the amount of damages claimed; and
- 37 (vii) A statement of the actual residence of the claimant at the  
38 time of presenting the claim and at the time the claim arose.

1 (b) The standard tort claim form must be signed either:

2 (i) By the claimant, verifying the claim;

3 (ii) Pursuant to a written power of attorney, by the attorney in  
4 fact for the claimant;

5 (iii) By an attorney admitted to practice in Washington state on  
6 the claimant's behalf; or

7 (iv) By a court-approved guardian or guardian ad litem on behalf of  
8 the claimant.

9 (c) Local governmental entities shall make available the standard  
10 tort claim form described in this section with instructions on how the  
11 form is to be presented and the name, address, and business hours of  
12 the agent of the local governmental entity. If a local governmental  
13 entity chooses to also make available its own tort claim form in lieu  
14 of the standard tort claim form, the form:

15 (i) May require additional information beyond what is specified  
16 under this section, but the local governmental entity may not deny a  
17 claim because of the claimant's failure to provide that additional  
18 information;

19 (ii) Must not require the claimant's social security number; and

20 (iii) Must include instructions on how the form is to be presented  
21 and the name, address, and business hours of the agent of the local  
22 governmental entity appointed to receive the claim.

23 (d) If any claim form provided by the local governmental entity  
24 fails to require the information specified in this section, or  
25 incorrectly lists the agent with whom the claim is to be filed, the  
26 local governmental entity is deemed to have waived any defense related  
27 to the failure to provide that specific information or to present the  
28 claim to the proper designated agent.

29 (e) Presenting either the standard tort claim form or the local  
30 government tort claim form satisfies the requirements of this chapter.

31 (f) The amount of damages stated on the claim form is not  
32 admissible at trial.

33 (4) No action subject to the claim filing requirements of this  
34 section shall be commenced against any local governmental entity, or  
35 against any local governmental entity's officers, employees, or  
36 volunteers, acting in such capacity, for damages arising out of  
37 tortious conduct until sixty calendar days have elapsed after the claim  
38 has first been presented to the agent of the governing body thereof.

1 The applicable period of limitations within which an action must be  
2 commenced shall be tolled during the sixty calendar day period. For  
3 the purposes of the applicable period of limitations, an action  
4 commenced within five court days after the sixty calendar day period  
5 has elapsed is deemed to have been presented on the first day after the  
6 sixty calendar day period elapsed.

7 (5) With respect to the content of claims under this section and  
8 all procedural requirements in this section, this section must be  
9 liberally construed so that substantial compliance will be deemed  
10 satisfactory.

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