
Judiciary Committee

SB 5136

Title: An act relating to electronic presentment of claims against the state arising out of tortious conduct.

Brief Description: Concerning electronic presentment of claims against the state arising out of tortious conduct.

Sponsors: Senators Padden and Kline; by request of Department of Enterprise Services.

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| <p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Allows for claims against the state to be presented as an attachment to electronic mail or by fax. |
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Hearing Date:

Staff: Cece Clynch (786-7195).

Background:

Washington Constitution Article II, Section 26 authorizes the Legislature to direct by law the manner in which lawsuits may be brought against the state. The "claim filing statute" provides that a person may not commence a tort action for damages against the state, or any state officer, employee, or volunteer, acting in such capacity, without presenting a tort claim. One of the purposes of the "claim filing statute" is to allow time for investigation, evaluation, and settlement of claims prior to instigation of a civil lawsuit.

Claims presented after July 26, 2009, must utilize the standard tort claim form. The standard tort claim form must, at a minimum, require the following information: the claimant's name, date of birth, and contact information; a description of the conduct and the circumstances that brought about the injury or damage; a description of the injury or damage; the time and place of the occurrence; a listing of persons involved, if known; a statement of damages claimed; and a

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statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

A lawsuit may not be commenced until 60 calendar days have elapsed after the claim, on the standard tort claim form, and signed by the requisite persons, is presented. Claims are deemed presented when the claim form is delivered in person or by regular mail, registered mail, or certified mail, with return receipt requested, to the Risk Management Division housed within the Office of Financial Management. (Since 2011 and the creation of the Department of Enterprise Services (DES), the Office of Risk Management has been housed in the DES.)

The state is required to make available on its website the standard tort claim form, together with instructions on completing the form. In addition, this website must include the name, address, and business hours of the Risk Management Division.

Summary of Bill:

In addition to delivery in person or by regular, registered, and certified mail, a claim form may be presented as an attachment to electronic mail or by fax.

When a claim form is presented electronically, it must bear an electronic signature in lieu of a written original signature. An "electronic signature" means a facsimile of an original signature that is affixed to the claim form and executed or adopted by the person with the intent to sign the document. When an electronic conveyance is used and the claim is submitted as an attachment to electronic mail, the conveyance of the claim must include the date, time the claim was presented, and the internet provider's address from which it was sent. When an electronic signature is used and the claim is submitted via fax, the conveyance must include the date, time the claim was submitted, and the fax number from which it was sent.

Information relative to the claim form and instructions, required to be made available by the state, must also include the United States mail, physical, and electronic addresses and numbers where a claim may be presented.

References are changed to reflect 2011 legislation that created the Department of Enterprise Services, within which is housed the Office of Risk Management (formerly the Risk Management Division).

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.