

SENATE BILL REPORT

SB 5136

As Amended by House, April 15, 2013

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.

Brief History:

Committee Activity: Law & Justice: 1/28/13, 2/01/13 [DP].

Passed Senate: 2/06/13, 49-0.

Passed House: 4/15/13, 96-1.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Jessica Stevenson (786-7465)

Background: Claims for tortious conduct can be brought against the state. Under current law, a claim is 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 of the Department of Enterprise Services (DES). All claims for damages after July 26, 2009, must be presented on the standard tort claim form provided by the risk management division on the Office of Financial Management's website. Instructions for presenting the claim form must be provided and include the name, address, and business hours of the risk management division.

The claim form must be signed by the claimant, an attorney in fact pursuant to a power of attorney, an attorney admitted in Washington on the claimant's behalf, or a court-approved guardian or guardian ad litem on the claimant's behalf.

Summary of Bill: A claim can be presented as an attachment to e-mail or by fax to the office of risk management of the DES. If a claim is delivered electronically, an electronic

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signature must be used. An electronic signature is defined as an original signature that is placed on the claim form and executed or adopted by the person with the intent to sign the form.

When an electronic signature is used and the claim is submitted as an attachment to e-mail, the conveyance of the claim must include the date, time, and internet address from which it was sent. The attached claim form must be in a format approved by the office of risk management. When an electronic signature is used for a form submitted by fax, the conveyance must include the date, time, and fax number from which it was sent.

The standard tort claim form must be posted on the DES's website. The claim form and its instructions must state the physical and electronic addresses and numbers where the form can be submitted.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: On average, there are approximately 4000 claims filed against the state each year. This gives claimants a new option. The current procedure of filing by mail is still accepted. This will enhance our service and help expedite the processing of claims. We need to recognize that many people use electronic means to send documents. The documents are stored electronically anyway, so this just eliminates an unnecessary step. Both the claimant and the state benefit from this user-friendly option.

Persons Testifying: PRO: Senator Padden, prime sponsor; Lucy Isaki, State Risk Manager, DES; Professor David DeWolf, citizen.

House Amendment(s): The amendment adds a provision that allows a claimant the opportunity to cure in the event of a question about an electronic signature and provides that the cured notice relates back to the date of the original filing.