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**HOUSE BILL 1892**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Representatives Graham, Chase, Walsh, and Schmidt

Read first time 02/07/25. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to the establishment of liability standards for  
2 state legislators; amending RCW 4.92.070, 4.92.075, and 4.96.041;  
3 adding a new chapter to Title 7 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** (1) Any person injured by an individual  
6 who was previously arrested for a violent offense, and subsequently  
7 released from custody before trial for such offense or not reasonably  
8 criminally prosecuted for such offense as a result of a state law  
9 that makes it easier for the individual to obtain pretrial release or  
10 evade reasonable criminal prosecution than it would be in the absence  
11 of such law, has a cause of action against any state legislator that  
12 voted in favor of such law in committee or on the floor of the  
13 Washington house of representatives or senate, if: (a) The individual  
14 caused the injury after being released from custody; and (b) the  
15 state legislator failed to adequately consider the risk of public  
16 harm that could result from the individual being released from  
17 custody.

18 (2) For the purposes of this section, "state legislator" means  
19 all members of the Washington house of representatives and senate.

20 (3) For the purposes of this section, "violent offense" has the  
21 same meaning as defined in RCW 9.94A.030.

1 (4) For the purposes of this section, adequate consideration  
2 requires:

3 (a) A written and published assessment that analyzes:

4 (i) All known evidence about the risks of future criminal  
5 misconduct by individuals who have been accused of or arrested for a  
6 violent crime and are then subsequently released before trial or not  
7 reasonably criminally prosecuted;

8 (ii) The vulnerability and rights of crime victims; and

9 (iii) The adequacy of alternatives to pretrial detention and  
10 reasonable criminal prosecution; and

11 (b) Consideration of all relevant and reasonably available  
12 evidence, including public records, and the testimony of law  
13 enforcement officials and experts and crime victims and crime victim  
14 advocates.

15 (5) No form of legislative immunity may be raised as an immunity  
16 or defense to any action brought under this section, including  
17 without limitation any immunity or defense premised on the argument  
18 that a legislator or government has absolute immunity for purely  
19 legislative acts, or that immunity is warranted or necessary to avoid  
20 rendering the legislative process inoperable.

21 (6) In an action brought under this section, the court shall  
22 award to a prevailing plaintiff actual damages as determined by the  
23 trier of fact, and shall make an award of at least nominal damages.  
24 The court may also award to a prevailing plaintiff costs and  
25 reasonable attorneys' fees. The court may grant declaratory and  
26 injunctive relief as it deems appropriate.

27 (7) (a) Except as provided in (b) of this subsection, nothing in  
28 this section is intended to limit the right of an elected or  
29 appointed official to have a legal defense provided at the expense of  
30 the state or a political subdivision of the state, or to have any  
31 judgment under this section satisfied by the state or a political  
32 subdivision of the state under chapter 4.92 or 4.96 RCW.

33 (b) Whenever a claim is brought under this section, if the trier  
34 of fact finds by clear and convincing evidence that the defendant  
35 intentionally, knowingly, or recklessly disregarded the risk of  
36 public harm when the defendant voted in favor of a state law making  
37 it easier for an individual accused of a crime to obtain pretrial  
38 release or evade reasonable criminal prosecution, then:

39 (i) The defendant shall be personally liable for all costs of  
40 defense and judgment;

1 (ii) The state and any political subdivision of the state must  
2 not pay any of the defendant's subsequent costs of defense or  
3 judgment; and

4 (iii) Any costs of defense the state or any political subdivision  
5 of the state has previously paid must be repaid by the defendant  
6 within one year of entry of judgment.

7 (8) A cause of action under this section must be commenced within  
8 three years after the cause of action accrues. For the purpose of  
9 this section, a cause of action accrues when the plaintiff discovers,  
10 or in the reasonable exercise of diligence should discover, the  
11 elements of the cause of action.

12 (9) This section must be liberally construed to effect its  
13 beneficial and remedial purposes.

14 (10) Nothing in this section affects any other common law or  
15 statutory right of action available to a plaintiff.

16 (11) This section applies only to causes of action arising on or  
17 after the effective date of this section.

18 **Sec. 2.** RCW 4.92.070 and 1999 c 163 s 5 are each amended to read  
19 as follows:

20 (~~11~~) Except as provided in section 1(7) of this act, if the  
21 attorney general shall find that said officer, employee, or  
22 volunteer's acts or omissions were, or were purported to be in good  
23 faith, within the scope of that person's official duties, or, in the  
24 case of a foster parent, that the occurrence arose from the good  
25 faith provision of foster care services, said request shall be  
26 granted, in which event the necessary expenses of the defense of said  
27 action or proceeding relating to a state officer, employee, or  
28 volunteer shall be paid as provided in RCW 4.92.130. In the case of a  
29 foster parent, necessary expenses of the defense shall be paid from  
30 the appropriations made for the support of the department to which  
31 such foster parent is attached. In such cases the attorney general  
32 shall appear and defend such officer, employee, volunteer, or foster  
33 parent, who shall assist and cooperate in the defense of such suit.  
34 However, the attorney general may not represent or provide private  
35 representation for a foster parent in an action or proceeding brought  
36 by the department of social and health services against that foster  
37 parent.

1       **Sec. 3.** RCW 4.92.075 and 1989 c 413 s 2 are each amended to read  
2 as follows:

3       (~~When~~) Except as provided in section 1(7) of this act, when a  
4 state officer, employee, or volunteer has been represented by the  
5 attorney general pursuant to RCW 4.92.070, and the body presiding  
6 over the action or proceeding has found that the officer, employee,  
7 or volunteer was acting within the scope of his or her official  
8 duties, and a judgment has been entered against the officer,  
9 employee, or volunteer pursuant to chapter 4.92 RCW or 42 U.S.C. Sec.  
10 1981 et seq., thereafter the judgment creditor shall seek  
11 satisfaction only from the state, and the judgment shall not become a  
12 lien upon any property of such officer, employee, or volunteer.

13       **Sec. 4.** RCW 4.96.041 and 1993 c 449 s 4 are each amended to read  
14 as follows:

15       (1) Whenever an action or proceeding for damages is brought  
16 against any past or present officer, employee, or volunteer of a  
17 local governmental entity of this state, arising from acts or  
18 omissions while performing or in good faith purporting to perform his  
19 or her official duties, such officer, employee, or volunteer may  
20 request the local governmental entity to authorize the defense of the  
21 action or proceeding at the expense of the local governmental entity.

22       (2) If the legislative authority of the local governmental  
23 entity, or the local governmental entity using a procedure created by  
24 ordinance or resolution, finds that the acts or omissions of the  
25 officer, employee, or volunteer were, or in good faith purported to  
26 be, within the scope of his or her official duties, the request shall  
27 be granted. (~~If~~) Except as provided in section 1(7) of this act, if  
28 the request is granted, the necessary expenses of defending the  
29 action or proceeding shall be paid by the local governmental entity.

30       (~~Any~~) Except as provided in section 1(7) of this act, any monetary  
31 judgment against the officer, employee, or volunteer shall be paid on  
32 approval of the legislative authority of the local governmental  
33 entity or by a procedure for approval created by ordinance or  
34 resolution.

35       (3) The necessary expenses of defending an elective officer of  
36 the local governmental entity in a judicial hearing to determine the  
37 sufficiency of a recall charge as provided in RCW (~~(29.82.023)~~)  
38 29A.56.140 shall be paid by the local governmental entity if the  
39 officer requests such defense and approval is granted by both the

1 legislative authority of the local governmental entity and the  
2 attorney representing the local governmental entity. The expenses  
3 paid by the local governmental entity may include costs associated  
4 with an appeal of the decision rendered by the superior court  
5 concerning the sufficiency of the recall charge.

6 (4) (~~When~~) Except as provided in section 1(7) of this act, when  
7 an officer, employee, or volunteer of the local governmental entity  
8 has been represented at the expense of the local governmental entity  
9 under subsection (1) of this section and the court hearing the action  
10 has found that the officer, employee, or volunteer was acting within  
11 the scope of his or her official duties, and a judgment has been  
12 entered against the officer, employee, or volunteer under chapter  
13 4.96 RCW or 42 U.S.C. Sec. 1981 et seq., thereafter the judgment  
14 creditor shall seek satisfaction for nonpunitive damages only from  
15 the local governmental entity, and judgment for nonpunitive damages  
16 shall not become a lien upon any property of such officer, employee,  
17 or volunteer. The legislative authority of a local governmental  
18 entity may, pursuant to a procedure created by ordinance or  
19 resolution, agree to pay an award for punitive damages.

20 NEW SECTION. **Sec. 5.** Section 1 of this act constitutes a new  
21 chapter in Title 7 RCW.

22 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2026.

23 NEW SECTION. **Sec. 7.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

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