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## Judiciary Committee

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### HB 2259

**Title:** An act relating to immunity for department of corrections officers when assistance is requested from a law enforcement officer.

**Brief Description:** Providing immunity for department of corrections officers when assistance is requested from a law enforcement officer.

**Sponsors:** Representatives Goodman, O'Brien, Roberts, Pearson, Hurst, Ormsby and Ahern.

Brief Summary of Bill
<ul style="list-style-type: none"><li>Establishes a gross negligence standard of liability for a community corrections officer who provides assistance to a law enforcement officer at the law enforcement officer's request and during the course of a patrol with the law enforcement officer.</li></ul>



**Hearing Date:** 2/26/07

**Staff:** Edie Adams (786-7180).

**Background:**

The Department of Corrections (DOC) is responsible for the supervision of felony offenders and misdemeanor and gross misdemeanor offenders sentenced in superior court. The DOC must perform a risk assessment of felony offenders and of misdemeanor and gross misdemeanor probationers in order to classify them into one of four risk management classifications. The DOC is required by statute to supervise only those felony offenders and misdemeanor and gross misdemeanor probationers who: rank in the two highest risk management classifications; have been convicted of specific offenses (regardless of risk classification); or have treatment requirements, first-time offender waivers, or supervision requirements transferred to Washington from another state.

Tort liability based on negligence requires the following elements: duty of the defendant towards the plaintiff; breach of that duty; causation of the injury by the breach; and damages to the plaintiff. A general duty of care is imposed on all persons to not be negligent. The Legislature has often altered the standard of care for specific types of actions to a gross negligence standard

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of care. Gross negligence means the failure to exercise slight care, and is substantially and appreciably greater than ordinary negligence.

Law enforcement officers have a common law qualified immunity from liability that applies if the officer is engaged in carrying out a statutory duty according to procedures dictated by statute and superiors and if the officer acts reasonably. A police officer is generally carrying out a statutory duty when enforcing the criminal laws. In addition, there are numerous statutory provisions in state law that provide law enforcement officers with limited immunity in particular circumstances. Most of these statutes provide immunity if the law enforcement officer acts in "good faith."

The DOC and its community corrections officers are not liable for civil damages resulting from an act or omission in conducting superior court misdemeanor probation activities unless the act or omission constitutes gross negligence. There is also a statute that provides a gross negligence standard for DOC and its community corrections officers when engaged in activities relating to community placement.

**Summary of Bill:**

Community corrections officers are authorized to collaborate with law enforcement officers to monitor offenders under the supervision of the Department of Corrections.

A community corrections officer who partners with a law enforcement officer and is participating in a patrol with the officer is not liable for damages arising from any act or omission while providing assistance to a law enforcement officer during the course of the patrol and at the officer's request, unless the act or omission constitutes gross negligence.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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