

HOUSE BILL REPORT

HB 2590

As Reported By House Committee On:

Law & Justice

Title: An act relating to actions against state officers, employees, volunteers, or foster parents.

Brief Description: Clarifying grounds for actions against state officers, employees, volunteers, and foster parents.

Sponsors: Representatives Mielke, Boldt, Smith and Clements.

Brief History:

Committee Activity:

Law & Justice: 2/4/98, 2/6/98 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 7 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Carrell; Lambert; Mulliken and Sherstad.

Minority Report: Do not pass. Signed by 6 members: Representatives Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney; Lantz and Robertson.

Staff: Trudes Hutcheson (786-7384).

Background: The attorney general acts as legal counsel for the state, as required by statute. A person injured by a state employee's actions or omissions may sue the state employee for damages.

A state employee or foster parent sued for damages arising from acts or omissions while performing, or in good faith purporting to perform, official duties may ask the attorney general to defend the action at state expense. If the attorney general finds that the person's acts or omissions were, or were purported to be, in good faith and performed within the scope of the person's official duties, the attorney general must defend the action at state expense. When the attorney general has represented a state employee and a court has entered a judgment against the employee, the judgment creditor must seek satisfaction only from the state.

The term good faith– does not have a concrete meaning and is not defined in statute. Rather, good faith– is generally understood to encompass an honest belief, an absence of malice, good intention, and a faithfulness to one’s duty or obligation.

Negligence is the failure to use such care as a reasonably prudent person would use under similar circumstances. One acts negligently if one does something that a reasonable person would not do, or fails to do something that a reasonable person would do. The actor need not have any malicious intentions to be negligent.

Summary of Bill: A state employee or foster parent may request that the state defend him or her in an action for damages, and the attorney general must grant the request, if the acts or omissions were performed within the person’s official duties, in good faith, and without negligence.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Department of Social and Health Services and Child Protective Services falsify records and the employees are abusive.

Testimony Against: None.

Testified: Quentis "Ed" Vaile (pro); and Dolores Vaile (pro).