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SENATE BILL 5871

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State of Washington

55th Legislature

1997 Regular Session

By Senators Roach, Fairley, Patterson, McCaslin, Winsley, Sheldon, Goings and Oke

Read first time 02/18/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to the definition of law enforcement officer; and  
2 amending RCW 4.24.350.

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

4 **Sec. 1.** RCW 4.24.350 and 1984 c 133 s 2 are each amended to read  
5 as follows:

6 (1) In any action for damages, whether based on tort or contract or  
7 otherwise, a claim or counterclaim for damages may be litigated in the  
8 principal action for malicious prosecution on the ground that the  
9 action was instituted with knowledge that the same was false, and  
10 unfounded, malicious and without probable cause in the filing of such  
11 action, or that the same was filed as a part of a conspiracy to misuse  
12 judicial process by filing an action known to be false and unfounded.

13 (2) In any action, claim, or counterclaim brought by a judicial  
14 officer, prosecuting authority, or law enforcement officer for  
15 malicious prosecution arising out of the performance or purported  
16 performance of the public duty of such officer, an arrest or seizure of  
17 property need not be an element of the claim, nor do special damages  
18 need to be proved. A judicial officer, prosecuting authority, or law  
19 enforcement officer prevailing in such an action may be allowed an

1 amount up to one thousand dollars as liquidated damages, together with  
2 a reasonable attorneys' fee, and other costs of suit. A government  
3 entity which has provided legal services to the prevailing judicial  
4 officer, prosecuting authority, or law enforcement officer has  
5 reimbursement rights to any award for reasonable attorneys' fees and  
6 other costs, but shall have no such rights to any liquidated damages  
7 allowed.

8 (3) No action may be brought against an attorney under this section  
9 solely because of that attorney's representation of a party in a  
10 lawsuit.

11 (4) As used in this section:

12 (a) "Judicial officer" means a justice, judge, magistrate, or other  
13 judicial officer of the state or a city, town, or county.

14 (b) "Prosecuting authority" means any officer or employee of the  
15 state or a city, town, or county who is authorized by law to initiate  
16 a criminal or civil proceeding on behalf of the public.

17 (c) "Law enforcement officer" means a member of the state patrol,  
18 a sheriff or deputy sheriff, or a member of the police force of a city,  
19 town, university, ~~((or))~~ state college, or port district, or a  
20 "wildlife agent" or "ex officio wildlife agent" as defined in RCW  
21 77.08.010.

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