

HOUSE BILL REPORT

ESB 5109

As Reported By House Committee On:

Judiciary

Title: An act relating to immunity for school districts that make their facilities available to certain private nonprofit groups serving youth.

Brief Description: Creating limited immunity for school districts.

Sponsors: Senators Patterson, McAuliffe, Prentice, Johnson, Hochstatter, Brown, Heavey, Kline, Finkbeiner, Benton, Winsley, Oke and Kohl-Welles.

Brief History:

Committee Activity:

Judiciary: 3/30/99, 4/1/99 [DPA].

Brief Summary of Engrossed Bill (As Amended by House Committee)

- Grants school districts immunity from actions for injuries caused by employees of private nonprofit youth group programs when the youth group is using school facilities.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Staff: Trudes Hutcheson (786-7384).

Background:

A school district is liable for injury and damages caused by its negligence. A school district owes a duty to its pupils to anticipate reasonably foreseeable dangers and to take precautions protecting the children in its custody from such dangers. Even when students are not in "custody" of the school, the school district may be liable if school

personnel assume control and supervision over the student's activities. School districts may permit school facilities to be used for public purposes.

In August 1998, Governor Locke and Superintendent of Public Instruction Bergeson held a Youth Safety Summit. One of the recommendations contained in the Youth Safety Summit Report was that schools "should provide space in school buildings for non-school programs that serve youth" and "state law should be amended to limit school district liability when these groups use school facilities."

Summary of Amended Bill:

The Legislature intends to grant limited immunity to school districts to encourage them to allow private nonprofit youth groups to use school facilities for youth programs.

Beginning January 1, 2000, a school district is not liable for the injury or death of a person due to the action or inaction of a person employed or contracting under a private nonprofit group operating a youth program if:

- (a) the action or inaction takes place on school property and during the delivery of services of the youth program; and
- (b) the private nonprofit group provides proof of insurance before the first use of the school facilities, and the insurance meets certain minimum qualifications. The insurance must be an accident and liability policy issued by an insurance company authorized to do business in Washington, and coverage must be at least \$50,000 for bodily injury or death of one person, or at least \$100,000 for bodily injury or death of two or more persons in any incident.

The immunity granted lasts only as long as the insurance is in effect. This grant of immunity does not change or impair the ability of a person to recover damages for injuries caused by a contractor or employee of the school district acting in his or her capacity as a contractor or employee or by the existence of unsafe facilities or structures or programs of the school district. Nothing in the act, including a school district's failure to require a private nonprofit group to have insurance, broadens the school district's liability.

Amended Bill Compared to Engrossed Bill: The amended bill adds language to explicitly state that nothing in the act is intended to broaden the scope of a school district's liability.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect on January 1, 2000.

Testimony For: Some schools are not opening up their buildings to community organizations because the schools fear liability. It is good policy to encourage outside youth groups to use school buildings, and it would benefit the community. The youth groups would be required to carry their own liability insurance.

Testimony Against: None.

Testified: Senator Patterson, prime sponsor; and Loy Dale, Southwest Washington Management Insurance Cooperative.