

---

## Judiciary Committee

---

### HB 2523

**Title:** An act relating to limitation of actions.

**Brief Description:** Limiting the liability of facilities that are required by a governmental entity to accept certain clients.

**Sponsors:** Representatives Carrell, Talcott, Campbell, Mielke, Roach, Morell, Kirby, Eickmeyer and Dunn.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>· Limits the liability of facilities that are required, under a government contract, to accept certain clients for any damages sustained or caused by the clients.</li></ul>
--



**Hearing Date:** 1/31/02

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

**Background:**

Under tort law, a person may be liable for personal injury or property damage that results from his or her actions. A person is generally only liable if the person's act or failure to act was negligent. Negligence means that a person acts without the ordinary care that a reasonably prudent person would exercise under similar circumstances. In order for a person to be liable for a negligent act, the person must have a duty to the injured party, the person must breach that duty, and the breach must be the proximate cause of the injury to the person or the person's property.

Occasionally the Legislature will limit the tort liability of certain classes of persons or entities under certain circumstances. Generally, this limitation of liability establishes a gross negligence standard. That is, a class of actors is not liable for negligent acts, but will remain liable for any acts that constitute gross negligence. The standard of "gross negligence" means that a person acts without even slight care. Failure to exercise slight care does not mean the total absence of care, but has been said to mean care "substantially or appreciably less than the quantum of care inhering in ordinary negligence."

The state has waived its sovereign immunity and is generally liable for any negligent acts or

omissions in its dealings with the public. The state provides a wide variety of services to the public, and often contracts with private entities or businesses to help in delivering those services.

**Summary of Bill:**

A facility that is required to accept certain clients in order to enter into a contract with a governmental entity is not liable for any damages sustained or caused by the client as a result of any act or omission on the part of the facility that is not gross negligence or intentional misconduct.

Liability for damages sustained or caused by a client under these circumstances is the obligation of the state. A suit may be instituted and maintained against the state for the enforcement of the liability, the indemnification of the facility, or for a judgment against the facility for acts or omissions that are not intentional misconduct or gross negligence.

**Appropriation:** None.

**Fiscal Note:** Requested on January 29, 2002.

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