
SUBSTITUTE SENATE BILL 5355

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove)

READ FIRST TIME 02/26/01.

1 AN ACT Relating to the exercise of reasonable care by state
2 employees and its agents at the department of social and health
3 services and the department of corrections; adding new sections to
4 chapter 43.20A RCW; and adding new sections to chapter 72.09 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.20A RCW
7 to read as follows:

8 In an effort to protect the public health, safety, and welfare, the
9 legislature has authorized and funded programs addressing child and
10 elderly abuse and neglect and criminal offenders. The work undertaken
11 by state employees and agents to deliver these important services
12 requires them to make decisions based upon circumstantial evidence and
13 measurable risk of harm associated with the available competing
14 choices.

15 The legislature is obligated for policy reasons and fiscal
16 responsibility to assure the state is accountable under fair and
17 reasonable standards of negligence. The state cannot guarantee the
18 safety of its citizens, particularly in cases of harm involving the
19 criminal conduct of others. The legislature expects state workers to

1 perform this difficult work nonnegligently, and does not intend to
2 immunize the state for negligence. However, the legislature finds that
3 the citizens of this state should not be liable when the state worker
4 exercises reasonable care.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A RCW
6 to read as follows:

7 The state or a person, individually or in a representative capacity
8 for the state, who is involved in the delivery of social and health
9 services through the department of social and health services, is not
10 liable for selecting one of two or more alternative courses of action
11 even though the course of action chosen results in a poor outcome if
12 the person exercised reasonable care and skill in arriving at the
13 judgment to follow the particular course of action.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 72.09 RCW
15 to read as follows:

16 In an effort to protect the public health, safety, and welfare, the
17 legislature has authorized and funded programs addressing child and
18 elderly abuse and neglect and criminal offenders. The work undertaken
19 by state employees and agents to deliver these important services
20 requires them to make decisions based upon circumstantial evidence and
21 measurable risk of harm associated with the available competing
22 choices.

23 The legislature is obligated for policy reasons and fiscal
24 responsibility to assure the state is accountable under fair and
25 reasonable standards of negligence. The state cannot guarantee the
26 safety of its citizens, particularly in cases of harm involving the
27 criminal conduct of others. The legislature expects state workers to
28 perform this difficult work nonnegligently, and does not intend to
29 immunize the state for negligence. However, the legislature finds that
30 the citizens of this state should not be liable when the state worker
31 exercises reasonable care.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW
33 to read as follows:

34 The state or a person, individually or in a representative capacity
35 for the state, who is involved in the delivery of services through the
36 department of corrections, is not liable for selecting one of two or

1 more alternative courses of action even though the course of action
2 chosen results in a poor outcome if the person exercised reasonable
3 care and skill in arriving at the judgment to follow the particular
4 course of action.

5 NEW SECTION. **Sec. 5.** Nothing in this act may be construed to
6 limit the application of other statutes specifying a liability standard
7 for the state's employees and agents.

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