

Judiciary Committee

HB 1744

Title: *An act relating to actions and proceedings for damages brought against law enforcement officers.*

Brief Description: *Paying for certain actions and proceedings for damages brought against law enforcement officers.*

Sponsors: *Representatives Cairnes, Roach, Marine, O'Brien, Hurst, Lovick, Delvin, Esser and Jackley.*

Brief Summary of Bill

- *Imposes a time frame on a local governmental entity to determine whether the local governmental entity will pay for a law enforcement officer's defense in an action for damages against the officer for acts or omissions while performing his or her official duties.*
- *Requires the local governmental entity, under certain circumstances, to pay the monetary judgment, including any punitive judgment, entered against a law enforcement officer.*

Hearing Date: *2/20/01*

Staff: *Trudes Hutcheson (786-7384).*

Background:

An injured party may bring a civil action for damages against a local governmental entity for the tortious conduct of the local governmental entity's officers, employees, or volunteers while performing, or in good faith purporting to perform, their official duties.

Before commencing the civil action in court, however, the injured party must first file a claim with the local governmental entity within the applicable statute of limitations and then wait 60 days before filing the action in court. According to case law, the purpose of the waiting period is to allow investigation of claims and an opportunity for the local

governmental entity to explore alternatives to litigation.

Whenever an action for damages is brought against an officer, employee, or volunteer of a local government entity, the officer, employee, or volunteer may request the local government entity to authorize the defense of the action at the entity's expense.

The local governmental entity will pay for the necessary expenses of defending the action if the legislative authority of the local governmental entity, or the local governmental entity using procedures created by ordinance or resolution, finds that the acts or omissions were within the scope of the person's duties.

When an officer, employee, or volunteer has been represented at the expense of the local governmental entity, and the court finds that the person was acting within the scope of his or her official duties, and a judgment has been entered against the person, the judgment creditor shall seek satisfaction for nonpunitive damages only from the local governmental entity. Judgment for nonpunitive damages shall not become a lien on any property of the officer, employee, or volunteer.

A general authority Washington peace officer is any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency commissioned to enforce the criminal laws of the state.

A limited authority Washington law enforcement officer is any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington law enforcement agency means any agency, political subdivision, or unit of local government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the departments of Natural Resources, Fish and Wildlife, and Social and Health Services, the Gambling Commission, the Lottery Commission, the Parks and Recreation Commission, the Utilities and Transportation Commission, the Liquor Control Board, and the Department of Corrections.

A specially commissioned Washington peace officer is any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state. These include reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by Oregon or Idaho, or any such peace officer commissioned by a unit of local government of Oregon or Idaho.

Summary of Bill:

When a law enforcement officer makes a request for defense, the determination of whether the officer's acts or omissions were, or in good faith were purported to be, within the scope of his or her official duties shall be made within 60 days.

When a law enforcement officer has been represented at the expense of the local

governmental entity, and the court finds that the law enforcement officer was acting within the scope of his or her duties, any monetary judgment against the officer must be paid by the legislative authority of the local governmental entity. The distinction between punitive and nonpunitive damages is removed for the purposes of judgments against law enforcement officers.

The bill defines a law enforcement officer to include a: (a) general authority Washington peace officer; (b) specially commissioned Washington peace officer; and (c) limited authority Washington peace officer if the limited authority peace officer is authorized by his or her employer to carry a concealed pistol.

Appropriation: *None.*

Fiscal Note: *Requested February 18, 2001.*

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