
Judiciary Committee

SB 5673

Title: An act relating to nonliability for a formerly confined person's acts subsequent to release.

Brief Description: Clarifying that confinement facilities are not liable for former confined persons' acts after release.

Sponsors: Senators Brandland, Benton, Stevens, Hargrove, Honeyford, Haugen, Mulliken and Winsley.

Brief Summary of Bill

- Provides that jails or juvenile detention facilities are not liable for the acts of an offender who has been released from confinement pursuant to a court order or other lawful authority.

Hearing Date: 3/25/03

Staff: Edie Adams (786-7180).

Background:

Offenders convicted of misdemeanors and gross misdemeanors, and felony offenders sentenced to confinement of one year or less, serve their confinement in a local jail. Juvenile offenders who receive a disposition of local sanctions, as opposed to commitment to a state facility, serve confinement in a local juvenile detention facility. An offender who has served the confinement portion of the sentence and is released from jail or a juvenile detention facility may still be subject to probation or community supervision as part of the sentence. However, some offenders are not subject to further supervision upon release.

A person who has been injured by another may bring a civil action to recover damages caused by the injury. The plaintiff in a case for negligence must establish four things: (1) the defendant owed a duty of care to the plaintiff; (2) the defendant breached that duty; (3) the breach was a proximate cause of the injury; and (4) the plaintiff suffered personal injury or property damage.

Generally, a person does not have a duty to protect others from the criminal acts of third

persons. However, there is an exception where a special relationship exists between the person and the third party. Whether a person has a duty to protect another from intentional acts of a third person depends upon the relationship between the parties and the extent to which the third party's conduct was foreseeable.

Washington courts have found that state parole officers or local probation officers do have a duty to protect others from reasonably foreseeable danger resulting from the dangerous propensities of parolees or probationers. This duty is based on the "definite, established and continuing relationship" between the parole or probation officer and the parolee or probationer. Absent this relationship, no duty arises.

Summary of Bill:

An adult jail or juvenile detention facility, or their officers, employees, agents or contractors, are not liable in a civil or criminal proceeding for any act committed by an offender after the offender's release from confinement if the release was pursuant to a court order or other lawful authority.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.