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SENATE BILL 5997

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State of Washington

60th Legislature

2007 Regular Session

By Senators Hargrove and Stevens

Read first time 02/12/2007. Referred to Committee on Human Services & Corrections.

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, or a unit of local government or its representatives or  
9 agents if acting as an agent of the state, who is involved in the  
10 delivery of social and health services through the department of social  
11 and health services, is not liable for selecting one of two or more  
12 alternative courses of action even though the course of action chosen  
13 results in a poor outcome if the person exercised reasonable care and  
14 skill in arriving at the judgment to follow the particular course of  
15 action.

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

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

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

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

1       The state or a person, individually or in a representative capacity  
2 for the state, or a unit of local government or its representatives or  
3 agents if acting as an agent of the state, who is involved in the  
4 delivery of services through the department of corrections, is not  
5 liable for selecting one of two or more alternative courses of action  
6 even though the course of action chosen results in a poor outcome if  
7 the person exercised reasonable care and skill in arriving at the  
8 judgment to follow the particular course of action.

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

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