



Senate Fiscal Agency  
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BILL



ANALYSIS

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Senate Bill 1240 (as introduced 9-11-12)  
Sponsor: Senator Dave Hildenbrand  
Committee: Families, Seniors and Human Services

Date Completed: 9-27-12

### **CONTENT**

**The bill would create the "Social Services Agency Liability Act" to grant immunity to a social services agency, and its officers and employees, for injury or damage caused by the provision of a child social welfare program, subject to an exception for gross negligence or willful misconduct.**

Specifically, a social services agency would be immune from liability for personal injury or property damage caused by its provision of a child social welfare program. A director, member, officer, employee, or agent of a social services agency also would be immune from liability for personal injury or property damage caused by that person while he or she was acting on behalf of the agency in the conduct of a child social welfare program, if he or she were acting or reasonably believed he or she was acting within the scope of his or her authority.

"Social services agency" would mean a person, other than an individual, that is licensed by the State to provide child social welfare programs. "Child social welfare program" would mean a court-appointed residential or home-based program for juveniles, a program involving foster care coordination, including adoption activities, or a respite care program.

The immunity provisions would not apply if the conduct that caused personal injury or property damage amounted to gross negligence or were willful misconduct.

"Gross negligence" would mean conduct or a failure to act that is so reckless that it demonstrates a substantial lack of concern for whether an injury will result. "Willful misconduct" would mean conduct or a failure to act that is intended to harm the plaintiff.

In a civil action for damages resulting from the conduct of a child social welfare program, there would be a presumption that a director, member, officer, employee, or agent of a social services agency was acting within the scope of his or her authority and that his or her conduct did not amount to gross negligence and was not willful misconduct.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

It is unlikely that the bill would have any fiscal impact on the State or local units of government. To the extent that such cases come before the courts under current law, it is possible that the bill could result in a minimal caseload reduction within a given court. As

the appropriation for the courts is not calculated on a case-by-case basis, however, the State and local budgets would not be affected.

A request for data on the number of such cases that have come before the courts in the past 10 years is pending.

Fiscal Analyst: Frances Carley