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BILL



ANALYSIS

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Senate Bill 1240 (as enacted)  
Sponsor: Senator Dave Hildenbrand  
Senate Committee: Families, Seniors and Human Services  
House Committee: Families, Seniors, and Human Services

**PUBLIC ACT 590 of 2012**

Date Completed: 3-27-13

**CONTENT**

**The bill created 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 exceptions for either gross negligence or willful misconduct or an act prohibited by law and punishable by imprisonment.**

Specifically, a social services agency is 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 is immune from liability for personal injury or property damage caused by that person while he or she is acting on behalf of the agency in the conduct of a child social welfare program, if the person is acting or reasonably believes he or she is acting within the scope of his or her authority.

"Social services agency" means a person, other than an individual, that is licensed by the State to provide child social welfare programs. "Child social welfare program" means a child welfare residential or home-based program, a program involving foster care coordination including adoption activities, a respite care program, or behavioral health or early education services operating under contract and as an agent for the Department of Human Services.

The immunity provisions do not apply if the conduct that causes personal injury or property damage amounts to gross negligence or is willful misconduct. The immunity provisions also do not apply if the conduct that causes personal injury or property damage is prohibited by law and a violation of the prohibition is punishable by imprisonment.

"Gross negligence" means 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" means 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 is 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, was not willful misconduct, and was not punishable by imprisonment.

The Act took effect on January 7, 2013.

**FISCAL IMPACT**

It is unlikely that the bill will have any fiscal impact on the State or local units of government. To the extent that such cases would come before the courts absent the bill, it is possible that the bill may 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 will not be affected.

Fiscal Analyst: Frances Carley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.