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SENATE FINANCE COMMITTEE REPORT

DATE: 4/4/90

FURTHER:

DATE TURNED INTO OFFICE: 4/25/90

The Finance Committee considered

SB 159

"An Act limiting liability relating to release and supervision of persons in state custody; and providing for an effective date."

and recommended:

[] replace with CS
[/] or adopt CS SB 159 (ind)
[] attached amendment(s)
[] letter of intent adopted

[] same title
[/] new title
[] technical title change (HB only)

[] do pass

[] do not pass

[/] no recommendation

[] individual recommendations

[] further referral to

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

[] fiscal note(s) Dept/Date:

[] fiscal note(s) Dept/Date:

[] zero fiscal note(s)

[/] zero fiscal note(s) DOC 1/20/89

[] appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

[Signature]

Peace - no rec

[Signature]

[Signature] No Rec

[Signature]

[Signature] No Rec

[Signature]

[Signature] No Rec

1. [Signature] No Rec

2. [Signature] No Rec

Co-chairs: signatures and Recommendations

R10 SFC 11-25-90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act limiting liability relating to release."
Sponsor: Rules Committee
Requestor: GOVERNOR

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Susan E. Knighton
Prepared by: Susan E. Knighton, Director Phone: 465-3376
Division: Administrative Services Date: 1-20-89

Approved by Commissioner: Susan Thompson-Barnett Date: 1-20-89
Agency: Department of Corrections

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Changes in CS SB 159 (Jvo)
have no fiscal impact. This
fiscal note is appropriate.
Projections of no fiscal impact
would continue through 1996. *ck*

Original sponsor(s): Rules/Governor

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 159 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to liability for release and super-
7 vision of persons in state custody; and providing for
8 an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 09.50 is amended by adding a new section to read:

11 Sec. 09.50.255. IMMUNITY; PERSONS IN STATE CUSTODY. (a) Except
12 as provided in (b) of this section, the state, its employees, and
13 state contractors and their employees are immune from liability for
14 negligence in the release of a person from confinement under state
15 custody and the post-release supervision of the person if the person's
16 release is required by operation of law or is not the result of an
17 exercise of discretion by a state official, employee, board, or com-
18 mission.

19 (b) This section does not affect the liability of the state, its
20 employees, and state contractors and their employees for gross negli-
21 gence in the supervision of a person on parole, probation, furlough,
22 or work release.

23 (c) In this section,

24 (1) "confinement" means detention, hospitalization, invol-
25 untary restraint, or similar restriction of movement;

26 (2) "gross negligence" means reckless disregard for the
27 safety of individual, identifiable victims.

28 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

STEVE COWPER
GOVERNOR



159

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 3, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill reducing liability of the state, and those acting on behalf of the state, for damages relating to the release and supervision of persons in state custody who are on conditional release from confinement.

Proposed AS 09.50.255, in sec. 1 of the bill, provides for immunity of the state and its agents and contractors for negligence in release or supervision. However, the state and those acting on behalf of the state would still be liable in specific instances involving gross negligence, defined in proposed AS 09.50.255(b) as "reckless disregard for the safety of individual, identifiable victims." Guidance as to the meaning of "reckless" may be derived from AS 11.81.900(a)(3), which defines "recklessly" for the purposes of the Criminal Code.

Immunity is extended to state contractors because liability insurance is generally unavailable or prohibitively expensive for contractors. If a particular contractor is able to obtain insurance, it is expected that eliminating the necessity for the insurance would result in that cost saving being passed on to the state.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper".

Steve Cowper
Governor