

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6717

BILL NUMBER: HB 1090

DATE PREPARED: Dec 11, 1998

BILL AMENDED:

SUBJECT: Tort claims, comparative fault, and suicide.

FISCAL ANALYST: Susan Preble

PHONE NUMBER: 232-9867

FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill establishes rebuttable presumptions under the law concerning tort claims against the state and political subdivisions of the state and public employees that if the death of or any part of an injury suffered by a person occurred while the person was committing or attempting to commit suicide while under the custodial care or control of a governmental entity: (1) the person's contributory fault is greater than the fault of the governmental entity, a public employee acting within the scope of the employee's employment, or any other person whose fault proximately contributed to the claimant's damages; and (2) the person, in taking the first step toward the commission or attempted commission of suicide, knowingly and voluntarily waived the person's or the person's representative's right to recover damages sustained by the person during the commission or attempted commission of suicide.

It establishes rebuttable presumptions in actions based on fault that if the death of or any part of an injury suffered by a person occurred while the person was committing or attempting to commit suicide while under the custodial care or control of another person: (1) the person's contributory fault is greater than the fault of all other persons whose fault proximately contributed to the person's damages; and (2) the person, in taking the first step toward the commission or attempted commission of suicide, knowingly and voluntarily waived the person's or the person's representative's right to recover damages sustained by the person during the commission or attempted commission of suicide.

Effective Date: July 1, 1999.

Explanation of State Expenditures: Passage of this bill potentially decreases the number of lawsuits filed against the state and political subdivisions of the state and public employees. The bill makes it more difficult for plaintiffs by establishing presumptions that a plaintiff must overcome in a tort claim due to the death or injury suffered by a person when committing or attempting to commit suicide while under the custodial care or control of a governmental entity.

This bill will potentially decrease the damage awards that the State would have to pay. By statute, damage awards cannot exceed \$300,000 for the injury to, or death of, one person in any one occurrence and \$5 million for the injury to, or death of, all persons in that occurrence.

The Office of the Attorney General reports the amount of damages paid as a result of tort claims submitted and tort claim lawsuits filed against the State and by plaintiffs in tort and civil rights litigation between CY 1992 and CY 1997 as follows:

<u>CY</u>	<u>Damages Paid</u>
1997	\$3,438,230
1996	\$5,742,977
1995	\$6,362,071
1994	\$8,060,838
1993	\$4,048,126
1992	\$3,456,495

The amount paid includes tort claims paid at the time of claim submission, settlements upon the filing of lawsuits, and as a result of a court order. It also includes cases in both federal and state court.

Explanation of State Revenues:

Explanation of Local Expenditures: See State Expenditures.

Explanation of Local Revenues:

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Counties, cities and towns.

Information Sources: Barbara Crawford (232-6217), Office of the Attorney General.