

One Hundred Eighth Legislature - Second Session - 2024

Introducer's Statement of Intent

LB1192

Chairperson: Senator Justin Wayne

Committee: Judiciary

Date of Hearing: February 02, 2024

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Legislative Bill 1192 amends the State Tort Claims Act (STCA) and the Political Subdivision Tort Claims Act (PSTCA) to allow for some claims by prisoners, detainees, and children in the custody, care, or control of a government entity.

In enacting both the STCA and the PSTCA, the Legislature has waived the sovereign immunity of government agencies with respect to certain tort actions. However, both acts have exceptions to this waiver of immunity. One exception that exists in both the STCA and the PSTCA is that the government is immune from any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, or interference with contract rights. This is known as the intentional tort exception to the waiver of sovereign immunity.

The Nebraska Supreme Court has interpreted this exception to bar suits against government agencies not if an employee committed an intentional tort, but also if a private third party commits a criminal act contributing to the harm—even if the government agency acted negligently. See *Moser v. State*, 307 Neb. 18, 948 NW 2d 194 (2020) and *Edwards v. Douglas County*, 308 Neb. 259, 953 NW 2d. 744 (2021).

LB 1192 would narrow the intentional tort exception to waive sovereign immunity in instances in which a child or person in the care, custody, or control of a government agency suffers serious bodily injury or death.

Principal Introducer: _____

Senator Danielle Conrad