

**ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015**  
**COMMITTEE STATEMENT**  
**LB188**

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**Hearing Date:** Friday January 23, 2015  
**Committee On:** Judiciary  
**Introducer:** Watermeier  
**One Liner:** Change provisions relating to innocent third parties injured during a vehicular pursuit

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

|                            |   |   |
|----------------------------|---|---|
| <b>Aye:</b>                | 5 | Senators Coash, Ebke, Seiler, Williams, Krist |
| <b>Nay:</b>                | 2 | Senators Morfeld, Pansing Brooks              |
| <b>Absent:</b>             | 1 | Senator Chambers                              |
| <b>Present Not Voting:</b> |   |   |

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**Verbal Testimony:**

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| <b>Proponents:</b><br>SEN. DAN WATERMEIER<br>VINCENT VALENTINO<br><br>BERNARD IN DEN BOSCH<br>ELAINE MENZEL | <b>Representing:</b><br>INTRODUCER<br>NEBRASKA GOVERNMENTAL RISK MANAGEMENT<br>ASSOCIATION<br>CITY OF OMAHA<br>NACO |
| <b>Opponents:</b><br>JASON AUSMAN   | <b>Representing:</b><br>NATA  |
| <b>Neutral:</b>   | <b>Representing:</b>  |

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**Summary of purpose and/or changes:**

Current law provides that in case of death, injury, or property damage to any innocent third party proximately caused by the action of a law enforcement officer employed by the state or a political subdivision during a vehicular pursuit, damages shall be paid to such third party by the state or political subdivision employing the officer.

LB188 would amend 13-911 and 81-8,215.01 to exclude certain passengers in the fleeing vehicle from the definition of "innocent third party."

Subsection (a) would exclude any passenger that enters into the vehicle without coercion knowing, or with a reasonable belief, that the driver of the vehicle is under the influence of alcoholic liquor or drugs.

Subsection (b) would exclude any passenger that fails to take reasonable steps to persuade the driver of the fleeing vehicle to stop the vehicle.

Subsection (c) would exclude a passenger that promotes, provokes, or persuades the driver to engage in flight from law enforcement personnel.

Subsection (d) would exclude a passenger that is subject to arrest or sought to be apprehended by law enforcement

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personnel.

Subsection (e) would exclude a passenger that is engaged in any illegal activity which itself would give rise to an arrest.

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**Explanation of amendments:**

AM374 would include a passenger that enters "onto" a vehicle in the new subsection (5)(a). The amendment would also remove the language "subject to arrest" from the new subsection (5)(d). The amendment would also replace the (5)(e) with new language that would exclude a passenger as an innocent third party if they have "engaged in conduct chargeable as, or amounting to, a felony while in or on, or prior to entry into or onto, the fleeing vehicle."

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Les Seiler, Chairperson