

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1200

Introduced by Halloran, 33.

Read first time January 20, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to civil actions; to amend sections 13-902,
2 13-903, 13-920, 81-8,209, 81-8,210, and 81-8,229, Reissue Revised
3 Statutes of Nebraska, and section 25-228, Revised Statutes
4 Cumulative Supplement, 2020; to adopt the State and Political
5 Subdivisions Child Sexual Abuse Liability Act; to change provisions
6 relating to a statute of limitations for actions by child sexual
7 abuse victims; to exempt actions from the Political Subdivisions
8 Tort Claims Act and the State Tort Claims Act; to harmonize
9 provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known and may be
2 cited as the State and Political Subdivisions Child Sexual Abuse
3 Liability Act.

4 Sec. 2. (1) The Legislature hereby declares that the state and its
5 political subdivisions shall be liable in the same manner and to the same
6 extent as a private individual or entity under like circumstances for all
7 claims arising out of child sexual abuse.

8 (2) The Legislature further declares that the liability of the state
9 and its political subdivisions for any claims arising out of child sexual
10 abuse shall not be subject to the State Tort Claims Act or the Political
11 Subdivisions Tort Claims Act or the limitations or requirements in such
12 acts, including, but not limited to, limits on recoverable damages,
13 limits on the availability of a jury trial, notice requirements, and
14 statutes of limitations.

15 Sec. 3. For purposes of the State and Political Subdivisions Child
16 Sexual Abuse Liability Act:

17 (1) Child sexual abuse means conduct that amounts to a violation of
18 section 28-319.01 or 28-320.01; and

19 (2) Perpetrator means the person alleged to have committed child
20 sexual abuse.

21 Sec. 4. (1) An individual who is a victim of child sexual abuse may
22 bring a civil action for appropriate relief against the perpetrator.

23 (2) Appropriate relief in an action under this section includes
24 actual damages and such other relief as the court deems appropriate.

25 (3) There shall not be any time limitation for an action described
26 in this section if the child sexual abuse occurred (a) on or after the
27 effective date of this act, or (b) prior to the effective date of this
28 act, if such action was not previously time barred.

29 Sec. 5. (1) An individual who is a victim of child sexual abuse may
30 bring a civil action for appropriate relief against any person or entity
31 who is liable, by respondeat superior, vicarious liability, negligence,

1 or otherwise, pursuant to common law or statute, for the acts of the
2 perpetrator.

3 (2) Appropriate relief in an action under this section includes
4 actual damages and such other relief as the court deems appropriate.

5 (3) An action under this section may only be brought within twelve
6 years after the victim's twenty-first birthday.

7 Sec. 6. The State and Political Subdivisions Child Sexual Abuse
8 Liability Act constitutes a waiver of the sovereign immunity of the state
9 and all political subdivisions and an action under the act is not subject
10 to the State Tort Claims Act or the Political Subdivisions Tort Claims
11 Act.

12 Sec. 7. (1) Criminal prosecution under section 28-319.01 or
13 28-320.01 is not required to maintain a civil action under State and
14 Political Subdivisions Child Sexual Abuse Liability Act.

15 (2) The remedy provided in the State and Political Subdivisions
16 Child Sexual Abuse Liability Act is cumulative and shall be in addition
17 to any other remedies provided by law.

18 Sec. 8. Section 25-228, Revised Statutes Cumulative Supplement,
19 2020, is amended to read:

20 25-228 (1) Except as otherwise provided in the State and Political
21 Subdivisions Child Sexual Abuse Liability Act Notwithstanding any other
22 provision of law:

23 (a) There shall not be any time limitation for an action against the
24 individual or individuals directly causing an injury or injuries suffered
25 by a plaintiff when the plaintiff was a victim of a violation of section
26 28-319.01 or 28-320.01 if such violation occurred (i) on or after August
27 24, 2017, or (ii) prior to August 24, 2017, if such action was not
28 previously time barred; and

29 (b) An action against any person or entity other than the individual
30 directly causing an injury or injuries suffered by a plaintiff when the
31 plaintiff was a victim of a violation of section 28-319.01 or 28-320.01

1 may only be brought within twelve years after the plaintiff's twenty-
2 first birthday.

3 (2) Criminal prosecution of a defendant under section 28-319.01 or
4 28-320.01 is not required to maintain a civil action for violation of
5 such sections.

6 Sec. 9. Section 13-902, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 13-902 The Legislature hereby declares that no political subdivision
9 of the State of Nebraska shall be liable for the torts of its officers,
10 agents, or employees, and that no suit shall be maintained against such
11 political subdivision or its officers, agents, or employees on any tort
12 claim except to the extent, and only to the extent, provided by the
13 Political Subdivisions Tort Claims Act and the State and Political
14 Subdivisions Child Sexual Abuse Liability Act. The Legislature further
15 declares that it is its intent and purpose through this enactment to
16 provide uniform procedures for the bringing of tort claims against all
17 political subdivisions, whether engaging in governmental or proprietary
18 functions, and that the procedures provided by the act shall be used to
19 the exclusion of all others.

20 Sec. 10. Section 13-903, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 13-903 For purposes of the Political Subdivisions Tort Claims Act
23 and sections 16-727, 16-728, 23-175, 39-809, and 79-610, unless the
24 context otherwise requires:

25 (1) Political subdivision shall include villages, cities of all
26 classes, counties, school districts, learning communities, public power
27 districts, and all other units of local government, including entities
28 created pursuant to the Interlocal Cooperation Act or Joint Public Agency
29 Act. Political subdivision shall not be construed to include any
30 contractor with a political subdivision;

31 (2) Governing body shall mean the village board of a village, the

1 city council of a city, the board of commissioners or board of
2 supervisors of a county, the board of directors of a public power
3 district, the governing board or other governing body of an entity
4 created pursuant to the Interlocal Cooperation Act or Joint Public Agency
5 Act, and any duly elected or appointed body holding the power and
6 authority to determine the appropriations and expenditures of any other
7 unit of local government;

8 (3) Employee of a political subdivision shall mean any one or more
9 officers or employees of the political subdivision or any agency of the
10 subdivision and shall include members of the governing body, duly
11 appointed members of boards or commissions when they are acting in their
12 official capacity, volunteer firefighters, and volunteer rescue squad
13 personnel. Employee shall not be construed to include any contractor with
14 a political subdivision; and

15 (4) Tort claim shall mean any claim against a political subdivision
16 for money only on account of damage to or loss of property or on account
17 of personal injury or death, caused by the negligent or wrongful act or
18 omission of any employee of the political subdivision, while acting
19 within the scope of his or her office or employment, under circumstances
20 in which the political subdivision, if a private person, would be liable
21 to the claimant for such damage, loss, injury, or death but shall not
22 include any claim accruing before January 1, 1970 or an action under the
23 State and Political Subdivisions Child Sexual Abuse Liability Act.

24 Sec. 11. Section 13-920, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 13-920 (1) No suit shall be commenced against any employee of a
27 political subdivision for money on account of damage to or loss of
28 property or personal injury to or the death of any person caused by any
29 negligent or wrongful act or omission of the employee while acting in the
30 scope of his or her office or employment occurring after May 13, 1987,
31 unless a claim has been submitted in writing to the governing body of the

1 political subdivision within one year after such claim accrued in
2 accordance with section 13-905.

3 (2) No suit shall be permitted on a claim filed pursuant to this
4 section unless the governing body of the political subdivision has made
5 final disposition of the claim, except that if the governing body does
6 not make final disposition of the claim within six months after the claim
7 is filed, the claimant may, by notice in writing, withdraw the claim from
8 consideration of the governing body and begin suit.

9 (3) Except as provided in section 13-919, any suit commenced on any
10 claim filed pursuant to this section shall be forever barred unless begun
11 within two years after the claim accrued. The time to begin suit under
12 this section shall be extended for a period of six months (a) from the
13 date of mailing of notice to the claimant by the governing body as to the
14 final disposition of the claim or (b) from the date of withdrawal of the
15 claim from the governing body under this section, if the time to begin
16 suit would otherwise expire before the end of such period.

17 (4) This section does not apply to an action under the State and
18 Political Subdivisions Child Sexual Abuse Liability Act.

19 Sec. 12. Section 81-8,209, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 81-8,209 The State of Nebraska shall not be liable for the torts of
22 its officers, agents, or employees, and no suit shall be maintained
23 against the state, any state agency, or any employee of the state on any
24 tort claim except to the extent, and only to the extent, provided by the
25 State Tort Claims Act and the State and Political Subdivisions Child
26 Sexual Abuse Liability Act. The Legislature further declares that it is
27 its intent and purpose through such act to provide uniform procedures for
28 the bringing of tort claims against the state or an employee of the state
29 and that the procedures provided by such act shall be used to the
30 exclusion of all others.

31 Sec. 13. Section 81-8,210, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-8,210 For purposes of the State Tort Claims Act:

3 (1) State agency includes all departments, agencies, boards,
4 bureaus, and commissions of the State of Nebraska and corporations the
5 primary function of which is to act as, and while acting as,
6 instrumentalities or agencies of the State of Nebraska but shall not
7 include corporations that are essentially private corporations or
8 entities created pursuant to the Interlocal Cooperation Act or the Joint
9 Public Agency Act. State agency does not include any contractor with the
10 State of Nebraska;

11 (2) State Claims Board means the board created by section 81-8,220;

12 (3) Employee of the state means any one or more officers or
13 employees of the state or any state agency and shall include duly
14 appointed members of boards or commissions when they are acting in their
15 official capacity. State employee does not include any employee of an
16 entity created pursuant to the Interlocal Cooperation Act or the Joint
17 Public Agency Act or any contractor with the State of Nebraska;

18 (4) Tort claim means any claim against the State of Nebraska for
19 money only on account of damage to or loss of property or on account of
20 personal injury or death caused by the negligent or wrongful act or
21 omission of any employee of the state, while acting within the scope of
22 his or her office or employment, under circumstances in which the state,
23 if a private person, would be liable to the claimant for such damage,
24 loss, injury, or death but does not include any claim accruing before
25 January 1, 1970, any claim against an employee of the state for money
26 only on account of damage to or loss of property or on account of
27 personal injury or death caused by the negligent or wrongful act or
28 omission of the employee while acting within the scope of his or her
29 employment occurring on or after August 25, 1989, ~~and~~ any claim allowed
30 under the Nebraska Claims for Wrongful Conviction and Imprisonment Act or
31 an action under the State and Political Subdivisions Child Sexual Abuse

1 Liability Act;

2 (5) Award means any amount determined by the Risk Manager or State
3 Claims Board to be payable to a claimant under section 81-8,211 or the
4 amount of any compromise or settlement under section 81-8,218; and

5 (6) Risk Manager means the Risk Manager appointed under section
6 81-8,239.01.

7 Sec. 14. Section 81-8,229, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-8,229 From and after December 25, 1969, the authority of any
10 state agency to sue or be sued in its own name shall not be construed to
11 authorize suits against such state agency on tort claims except as
12 authorized in the State Tort Claims Act. The remedies provided by such
13 act for tort claims and suits against the state and employees of the
14 state shall be exclusive, except as otherwise provided in the State and
15 Political Subdivisions Child Sexual Abuse Liability Act.

16 Sec. 15. Original sections 13-902, 13-903, 13-920, 81-8,209,
17 81-8,210, and 81-8,229, Reissue Revised Statutes of Nebraska, and section
18 25-228, Revised Statutes Cumulative Supplement, 2020, are repealed.