

LEGISLATIVE BILL 590

Approved by the Governor February 7, 1984

Introduced by Chronister, 18

AN ACT relating to vehicular pursuits; to amend sections 23-2420 and 81-8,235, Reissue Revised Statutes of Nebraska, 1943, and section 25-21,183, Revised Statutes Supplement, 1982; to change conditions of liability; to define terms; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 23-2420, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2420. Sections 23-2401 to 23-2420 and section 2 of this act may be cited as the Political Subdivisions Tort Claims Act.

Sec. 2. That section 25-21,183, Revised Statutes Supplement, 1982, be amended to read as follows:

~~25-21,183.~~ In case of death, injury, or property damage to any innocent third party as a result of proximately caused by the action of ~~taken~~ by a law enforcement officer employed by a political subdivision during vehicular pursuit, damages shall be paid to such third party by the ~~state or~~ political subdivision employing the officer. This section shall be considered part of the Political Subdivision Tort Claims Act and the provisions of sections 23-2401 to 23-2420 shall apply.

For purposes of this section, vehicular pursuit shall mean an active attempt by a law enforcement officer operating a motor vehicle to apprehend one or more occupants of another motor vehicle, when the driver of the fleeing vehicle is or should be aware of such attempt and is resisting apprehension by maintaining or increasing his or her speed, ignoring the officer, or attempting to elude the officer while driving at speeds in excess of those reasonable and proper under the conditions.

Sec. 3. That section 81-8,235, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,235. Sections 81-8,209 to 81-8,235 and section 4 of this act may be cited as the State Tort Claims Act.

Sec. 4. 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 during vehicular pursuit, damages shall be paid to such third party by the state. This section shall be

considered part of the State Tort Claims Act and the provisions of sections 81-8,209 to 81-8,235 shall apply.

For purposes of this section, vehicular pursuit shall mean an active attempt by a law enforcement officer operating a motor vehicle to apprehend one or more occupants of another motor vehicle, when the driver of the fleeing vehicle is or should be aware of such attempt and is resisting apprehension by maintaining or increasing his or her speed, ignoring the officer, or attempting to elude the officer while driving at speeds in excess of those reasonable and proper under the conditions.

Sec. 5. That original sections 23-2420 and 81-8,235, Reissue Revised Statutes of Nebraska, 1943, and section 25-21,183, Revised Statutes Supplement, 1982, are repealed.