

CHAPTER 132

GOVERNMENT - STATE

HOUSE BILL 06-1189

BY REPRESENTATIVE(S) Cadman;
also SENATOR(S) Veiga.

AN ACT

CONCERNING CIVIL ACTIONS BROUGHT AGAINST PUBLIC ENTITIES AND EMPLOYEES TO RECOVER DAMAGES PAID FOR INJURIES GOVERNED BY THE "COLORADO GOVERNMENTAL IMMUNITY ACT".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that it has been the intent of the general assembly in the "Colorado Governmental Immunity Act", article 10 of title 24, Colorado Revised Statutes, to promote the ability of public entities to provide public services at a reasonable cost by:

(a) Limiting tort liability for injuries to persons or property caused by public entities or public employees other than injuries that result from the willful and wanton conduct of public employees;

(b) Requiring notice to be filed for all tort claims;

(c) Granting sovereign immunity from liability for all claims that lie in tort or could lie in tort, except in cases where a waiver of sovereign immunity has been established; and

(d) Limiting recovery on tort claims for which sovereign immunity has been waived.

(2) The general assembly further finds that it has been the intent of the general assembly that tort claims for damages be subject to the limitations of the "Colorado Governmental Immunity Act" regardless of whether a claim is brought directly by an injured party or indirectly by an assignee or subrogee of the injured party.

(3) The general assembly, therefore, determines and declares that it is necessary

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

to enact a bill to clarify the intentions of the general assembly and to assure that the immunity of public entities and public employees and the provisions, restrictions, and limitations of the "Colorado Governmental Immunity Act" apply to all claims which lie in tort or could lie in tort, including direct claims and indirect claims based on assignment and subrogation.

SECTION 2. 24-10-105, Colorado Revised Statutes, is amended to read:

24-10-105. Prior waiver of immunity - effect - indirect claims not separate.

(1) It is the intent of this article to cover all actions which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant. No public entity shall be liable for such actions except as provided in this article, and no public employee shall be liable for injuries arising out of an act or omission occurring during the performance of his OR HER duties and within the scope of his OR HER employment, unless such act or omission was willful and wanton, except as provided in this article. Nothing in this section shall be construed to allow any action which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant to be brought against a public employee except in compliance with the requirements of this article.

(2) (a) A REFERENCE IN THIS ARTICLE TO AN INJURY, CLAIM, OR ACTION THAT "LIES IN TORT OR COULD LIE IN TORT" SHALL BE CONSTRUED IN ALL CASES TO INCLUDE, IN ADDITION TO A DIRECT CLAIM OR ACTION, A CLAIM OR ACTION ASSERTED BY WAY OF ASSIGNMENT OR SUBROGATION TO RECOVER FROM A PUBLIC ENTITY OR PUBLIC EMPLOYEE THE AMOUNT PAID ON A DAMAGES CLAIM OR THE AMOUNT THAT MAY BECOME PAYABLE ON A DAMAGES CLAIM BECAUSE OF THE OCCURRENCE OF AN INJURY, AS DEFINED IN SECTION 24-10-103 (2).

(b) IN ANY CASE IN WHICH AN ASSIGNEE OR SUBROGEE ASSERTS AN INJURY GOVERNED BY THIS ARTICLE:

(I) THE INJURY SHALL NOT BE DEEMED TO BE SEPARATE FROM THE INJURY SUFFERED BY THE ASSIGNOR OR SUBROGOR; AND

(II) PURSUANT TO SECTION 24-10-114 (1.5), THE ASSIGNMENT OR SUBROGATION CONCERNING THE INJURY SHALL NOT BE DEEMED TO BE A SEPARATE OCCURRENCE WITH REGARD TO LIMITATIONS ON JUDGMENTS.

SECTION 3. 24-10-114, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-10-114. Limitations on judgments. (1.5) FOR PURPOSES OF SUBSECTION (1) OF THIS SECTION, AN ASSIGNMENT OR SUBROGATION TO RECOVER DAMAGES PAID OR PAYABLE FOR AN INJURY SHALL NOT BE DEEMED TO BE A SEPARATE OCCURRENCE.

SECTION 4. Effective date - applicability. This act shall take effect upon passage and shall apply to causes of action accruing on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 18, 2006