

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

1

SENATE BILL 1118

Short Title: Torts by State Law Enforcement/Employees.

(Public)

Sponsors: Senator Rand.

Referred to: Judiciary I.

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THE STATE'S DUTY WHEN A CIVIL ACTION IS
2 BROUGHT AGAINST A STATE LAW ENFORCEMENT OFFICER OR A
3 STATE EMPLOYEE, THE ATTORNEY GENERAL REFUSES TO DEFEND
4 THE OFFICER OR EMPLOYEE ON THE GROUNDS THAT THE OFFICER OR
5 EMPLOYEE DID NOT ACT WITHIN THE SCOPE AND COURSE OF
6 EMPLOYMENT, AND A COURT SUBSEQUENTLY DETERMINES THAT THE
7 OFFICER OR EMPLOYEE DID ACT WITHIN THE SCOPE AND COURSE OF
8 EMPLOYMENT.

9
10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 20-194(b) reads as rewritten:

12 "(b) In the event that a member of the Highway Patrol or any other State
13 law-enforcement officer is sued in a civil action as an individual for acts occurring
14 while such member was alleged to be acting within the course and scope of his office,
15 employment, service, agency or authority, which was alleged to be a proximate cause of
16 the injury or damage complained of, the Attorney General is hereby authorized to
17 defend such employee through the use of a member of his staff or, in his discretion,
18 employ private counsel, subject to the provisions of Article 31A of Chapter 143 and
19 G.S. 147-17. Any judgment rendered as a result of said civil action against such
20 member of the Highway Patrol or other State law-enforcement officer, for acts ~~alleged~~
21 ~~to be~~ the court determined were committed within the course and scope of his office,
22 employment, service, agency or authority shall be ~~paid~~ paid, whether or not the
23 Attorney General defended the employee, as an expense of administration up to the
24 limit provided in the Tort Claims Act."

25 **SECTION 2.** G.S. 143-300.6 is amended by adding a new subsection to
26 read:

27 "(d) As used in subsection (a) of this section, "in an action to which this Article
28 applies" means an action against a State employee for which the State agreed to provide
29 defense under G.S. 143-300.3 and also means an action against a State employee when

1 the State refused to provide defense for the reason that the State determined that the act
2 or omission of the employee was not within the scope and course of the employee's
3 employment and the court subsequently determined that the act or omission of the
4 employee was within the scope and course of employment."

5 **SECTION 3.** Where a judgment was entered in a civil action in federal
6 court against a member of the Highway Patrol for an injury of a person and where the
7 court that rendered the judgment concluded that the person's injury was the result of an
8 act of the member of the Highway Patrol committed while he was acting within the
9 course and scope of his employment, the person who brought that action has 180 days
10 from the enactment of this act to file an action in State court to enforce the earlier
11 judgment. It shall not be a defense to enforcing the earlier judgment that the member of
12 the Highway Patrol is no longer a State employee or that anytime limit for seeking to
13 enforce the judgment or any other time limit of civil procedure has tolled.

14 **SECTION 4.** This act is effective when it becomes law.