
DIGEST

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HB 844 Engrossed

2018 Regular Session

Garofalo

Abstract: Provides indemnification of clerks of court, and their employees, by the state against any claim, demand, or suit when performing duties of their office in accordance with state law.

Present law provides that the state shall not be liable for any damage caused by a district attorney, except as provided in present law, a coroner, assessor, sheriff, clerk of court, or public officer of a political subdivision within the course and scope of his official duties, or damage caused by an employee of a district attorney, except as provided by present law, a coroner, assessor, sheriff, clerk of court, or public officer of a political subdivision.

Present law provides that the state shall indemnify a district attorney and his office against any claim, demand, suit, complaint, or petition in a federal court based on allegations of the constitutional validity of a statute when the district attorney or his office has taken no action to institute prosecution by filing a bill of information or an indictment.

Proposed law retains present law and creates a limited exception on behalf of the clerk of court by providing that the state shall indemnify a clerk of court or any employee of his office against any claim, demand, or suit when the allegation is based on a challenge of the constitutional validity of a statute and when the clerk of court is acting in accordance with present law.

Present law provides that payment of a final judgment or consent judgment against the district attorney or his office shall be by legislative appropriation and also provides that payment of a final judgment or consent judgment, of any amount, against a district attorney or his office shall not be made unless the payment is approved by a majority of members of a subcommittee of the Joint Legislative Committee on the Budget comprised of three members of the Senate and three members of the House designated by the chairman, and further provides that the subcommittee may meet in executive session to consider such agreements.

Present law provides that the district attorney, or the attorney general, if the attorney general assumed the defense of the claim shall present the subcommittee with a concise abstract of the facts and principles of law upon which the claim is based. The abstract shall include a detailed analysis of the calculation of damages as well as attorney fees, court costs, and interest thereon.

Proposed law retains present law and provides the same procedures for the payment of a judgment against a clerk of court or his office and for presentation to the Joint Legislative Committee on the Budget.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 42:1441(A); Adds R.S. 42:1441(E))