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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE NO. **100**

January 15, 2009

Authored by Winkler

The bill was read for the first time and referred to the Committee on Civil Justice

January 22, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to claims against the state; clarifying provisions governing the I-35W
1.3 bridge collapse survivor compensation process; specifying indemnification
1.4 rights; limiting access to certain records of the special master panel and
1.5 specifying testimonial privileges; clarifying prohibition on third-party
1.6 subrogation or recovery claims; amending Minnesota Statutes 2008, sections
1.7 3.7393, subdivisions 3, 6, by adding a subdivision; 3.7394, subdivision 4.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2008, section 3.7393, subdivision 3, is amended to read:

1.10 Subd. 3. **Records.** (a) Records of the panel related to a claim filed by a survivor,
1.11 an offer of settlement, or an acceptance or rejection of an offer are not accessible to the
1.12 public except for:

1.13 (1) the name of the survivor; and

1.14 (2) the terms of any written settlement agreement between the survivor and the state.

1.15 (b) Records created by a member of the panel related to the member's service as
1.16 a member of the panel, including, but not limited to, any notes, are not subject to the
1.17 Minnesota Official Records Act or the Minnesota Government Data Practices Act, except
1.18 for a written settlement agreement between the survivor and the state and documentation
1.19 of salaries, expenses, and administrative costs under this section.

1.20 (c) Records created by a member of the panel related to the member's service as a
1.21 member of the panel are not discoverable in any civil or administrative proceeding except
1.22 a record relating to any statement or conduct that may constitute a crime.

1.23 Sec. 2. Minnesota Statutes 2008, section 3.7393, subdivision 6, is amended to read:

2.1 Subd. 6. **Immunity; indemnification.** (a) Members of the panel and employees
2.2 and consultants acting under the direction of the panel are absolutely immune from civil
2.3 liability for any act or omission occurring within the scope of the performance of their
2.4 duties under this section.

2.5 (b) Members of the panel, employees, and consultants acting under the direction of
2.6 the panel are employees of the state for purposes of section 3.736, subdivision 9.

2.7 Sec. 3. Minnesota Statutes 2008, section 3.7393, is amended by adding a subdivision
2.8 to read:

2.9 Subd. 6a. **Testimonial privilege.** A member of the panel must not testify in any
2.10 civil or administrative proceeding regarding any matter involving or arising out of the
2.11 member's service as a member of the panel, except as to a statement or conduct that
2.12 may constitute a crime.

2.13 Sec. 4. Minnesota Statutes 2008, section 3.7394, subdivision 4, is amended to read:

2.14 Subd. 4. **No third-party subrogation or recovery.** (a) Notwithstanding any
2.15 statutory or common law or agreement to the contrary, a person who ~~has paid~~ pays benefits
2.16 or compensation to or on behalf of a survivor does not have a subrogation or other right,
2.17 including, but not limited to, any rights otherwise provided under sections 65B.53 and
2.18 176.061, to recover those benefits or compensation by making a claim against the state,
2.19 a municipality or their employees, or by making a claim, or recovering from payments
2.20 made, under section 3.7393 or from the emergency relief fund.

2.21 (b) Following a settlement agreement under section 3.7393, a person who believes
2.22 that the state cannot constitutionally prohibit assertion of a subrogation or other claim
2.23 described in paragraph (a) and who is claiming claims such a subrogation or other interest
2.24 against the state, a municipality or their employees, or against the amount to be paid by the
2.25 state under section 3.7393 or any payment made from the emergency relief fund has 40
2.26 days after the settlement agreement was entered into to provide notice to the state and the
2.27 survivor of the person's intent to assert that interest, during which time the commissioner
2.28 of finance must not make the payment under section 3.7393. The subrogation or other
2.29 claim is waived if the notice is not provided by the deadline. If no notice is received by
2.30 the deadline, the commissioner of finance shall make the payment. If a notice of claim
2.31 is received, the commissioner shall withhold the payment until the ~~subrogee~~ person
2.32 abandons or waives the subrogation or other claim.

2.33 Sec. 5. **EFFECTIVE DATE.**

3.1 This act is effective retroactively from May 8, 2008.