

Legislature - First Session - 2015

Introducer's Statement of Intent

LB188

Chairperson: Senator Les Seiler

Committee: Judiciary

Date of Hearing: January 23, 2015

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Under both the Nebraska Political Subdivisions Tort Claims Act and the State Tort Claims Act, any public entity employing a law enforcement officer whose actions are the proximate cause of any death, injury, or property damage suffered by an "innocent third party" is strictly liable for and must pay for these damages irrespective of any fault or negligence on the part of the officer. "Innocent third party" is not defined in statute, so the courts have judicially constructed a definition to mean any person who has not promoted, provoked, or persuaded the driver to engage in flight from law enforcement personnel and one who is not sought to be apprehended in the fleeing vehicle.

LB 188 seeks to codify the judicial definition of "innocent third party" in statute. It also seeks to build on that definition by recognizing that there are other limited circumstances when a passenger in a fleeing vehicle should not be considered an innocent third party such as when evidence can be shown that the passenger is engaged in any illegal activity which would itself give rise to an arrest or when the passenger enters into the vehicle without coercion knowing, or with a reasonable belief, that the driver of the vehicle is under the influence of alcoholic liquor or drugs.

Principal Introducer: _____

Senator Dan Watermeier