

SENATE No. 2247

The Commonwealth of Massachusetts

SENATE, JULY 10, 1984.

The committee on Ways and Means, to whom was committed the House Bill to amend the so-called Massachusetts Tort Claims Act (House, No. 229), reports recommending that the same ought to pass, with an amendment, substituting a new draft entitled "An Act relative to certain claims against the Commonwealth" (Senate, No. 2247).

For the Committee

ANNA P. BUCKLEY

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT RELATIVE TO CERTAIN CLAIMS AGAINST THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 258 of the General Laws, as
2 appearing in section 15 of chapter 512 of the acts of 1978, is
3 hereby amended by adding the following paragraph: —

4 If a cause of action is commenced against a public employee
5 of the commonwealth alleging injury or loss of property or per-
6 sonal injury or death as a result of the negligent or wrongful
7 act or omission of such employee, then said employee may re-
8 quest representation by the public attorney of the com-
9 monwealth. The public attorney shall defend the public
10 employee with respect to the cause of action, at no cost to the
11 public employee, provided that, and so long as, said public at-
12 torney determines that the public employee was acting within
13 the scope of his office or employment at the time of the alleg-
14 ed loss, injury, or death, and said public employee provides
15 reasonable cooperation to the public employer and public at-
16 torney in the defense of any action arising out of the same sub-
17 ject matter. If, in the opinion of the public attorney, represen-
18 tation of the public employee, under this paragraph would
19 result in a conflict of interest for the public attorney, the public
20 attorney shall not be required to represent the public
21 employee; under such circumstances, however, the com-
22 monwealth shall reimburse the public employee for
23 reasonable attorney fees incurred by the public employee in
24 his defense of the cause of action, subject to the conditions of
25 representation by the public attorney under this paragraph.

1 SECTION 2. Section 6 of Chapter 258 of the General Laws, as
2 appearing in section 15 of Chapter 512 of the Acts of 1978, is
3 hereby amended, in the first sentence, by inserting after the
4 word "employer" the words: —

5 or public employee

1 SECTION 3. Section 6 of Chapter 258 of the General Laws, as
2 appearing in section 15 of Chapter 512 of the Acts of 1978, is
3 hereby amended, by adding the following sentence: —

4 Service of process in a civil action against a public employee
5 of the commonwealth pursuant to paragraph two of section 2
6 shall be made upon the public attorney of the commonwealth
7 or, where no such public attorney has been employed for such
8 purpose at the time service is made, service shall be made
9 upon such employee.

1 SECTION 4. This act shall apply to causes of actions brought
2 against public employees after June 30, 1984.

