

Senate File 476

S-3049

1 Amend Senate File 476 as follows:

2 1. By striking page 1, line 3, through page 2, line 32, and
3 inserting:

4 <Sec. _____. NEW SECTION. **669.14A Qualified immunity.**

5 1. Notwithstanding any other provision of law, an employee
6 of the state subject to a claim brought under this chapter
7 shall not be liable for monetary damages if any of the
8 following apply:

9 a. The right, privilege, or immunity secured by law was not
10 clearly established at the time of the alleged deprivation,
11 or at the time of the alleged deprivation the state of the
12 law was not sufficiently clear that every reasonable employee
13 would have understood that the conduct alleged constituted a
14 violation of law.

15 b. A court of competent jurisdiction has issued a final
16 decision on the merits holding, without reversal, vacatur, or
17 preemption, that the specific conduct alleged to be unlawful
18 was consistent with the law.

19 2. The state or a state agency shall not be liable for
20 any claim brought under this chapter where the employee
21 was determined to be protected by qualified immunity under
22 subsection 1.

23 3. A plaintiff who brings a claim under this chapter
24 alleging a violation of the law must state with particularity
25 the circumstances constituting the violation and that the law
26 was clearly established at the time of the alleged violation.
27 Failure to plead a plausible violation or failure to plead that
28 the law was clearly established at the time of the alleged
29 violation shall result in dismissal with prejudice.

30 4. Any decision by the district court denying qualified
31 immunity shall be immediately appealable.

32 5. This section shall apply in addition to any other
33 statutory or common law immunity.

34 Sec. _____. NEW SECTION. **669.26 Money damages — nonwaiver**
35 **of rights.**

1 This chapter shall not be construed to be a waiver of
2 sovereign immunity for a claim for money damages under the
3 Constitution of the State of Iowa.

4 Sec. ____ . NEW SECTION. **670.4A Qualified immunity.**

5 1. Notwithstanding any other provision of law, an employee
6 or officer subject to a claim brought under this chapter shall
7 not be liable for monetary damages if any of the following
8 apply:

9 a. The right, privilege, or immunity secured by law was not
10 clearly established at the time of the alleged deprivation,
11 or at the time of the alleged deprivation the state of the
12 law was not sufficiently clear that every reasonable employee
13 would have understood that the conduct alleged constituted a
14 violation of law.

15 b. A court of competent jurisdiction has issued a final
16 decision on the merits holding, without reversal, vacatur, or
17 preemption, that the specific conduct alleged to be unlawful
18 was consistent with the law.

19 2. A municipality shall not be liable for any claim brought
20 under this chapter where the employee or officer was determined
21 to be protected by qualified immunity under subsection 1.

22 3. A plaintiff who brings a claim under this chapter
23 alleging a violation of the law must state with particularity
24 the circumstances constituting the violation and that the law
25 was clearly established at the time of the alleged violation.
26 Failure to plead a plausible violation or failure to plead that
27 the law was clearly established at the time of the alleged
28 violation shall result in dismissal with prejudice.

29 4. Any decision by the district court denying qualified
30 immunity shall be immediately appealable.

31 5. This section shall apply in addition to any other
32 statutory or common law immunity.

33 Sec. ____ . NEW SECTION. **670.14 Money damages — nonwaiver**
34 **of rights.**

35 This chapter shall not be construed to be a waiver of

1 sovereign immunity for a claim for money damages under the
2 Constitution of the State of Iowa.

3 Sec. ____ . EFFECTIVE DATE. This division of this Act, being
4 deemed of immediate importance, takes effect upon enactment.>

5 2. Title page, lines 1 and 2, by striking <of law
6 enforcement officers>

7 3. Title page, line 5, after <prosecutors> by inserting <,
8 and including effective date provisions>

9 4. By renumbering as necessary.

DAN DAWSON