



1995 SENATE BILL 147

April 19, 1995 - Introduced by Senator LEEAN, cosponsored by Representative BRANCEL. Referred to Committee on Finance.

- 1 **AN ACT relating to:** the expenditure of \$3,500 from the general fund for payment
2 of a claim against the state made by Annie Joyce Daniel.

Analysis by the Legislative Reference Bureau

This bill directs expenditure of \$3,500 from the general fund in payment of a claim made by Annie Joyce Daniel against the state. The claimant is an employe of the department of health and social services at the southern center for the developmentally disabled. The claimant was charged with a violation of s. 940.29 (4), stats., relating to neglect, abuse and ill treatment of persons in mental health facilities, as a result of an incident which occurred on October 9, 1992, in which the claimant was accused of striking a resident while on duty. On January 8, 1993, the circuit court for Racine county dismissed the charge upon finding, after a preliminary hearing, that there was no probable cause to believe that the claimant had committed the alleged offense. The claimant claimed attorney fees in the amount of \$5,000, which she incurred based upon a flat fee agreement with her attorney.

Under s. 775,11, stats., the claims board is directed to allow reasonable attorney fees and costs incurred by a state employe who is charged with a violation of s. 940.29, stats., and found not guilty. Because, in the instant case, the charges did not proceed to trial, that statute does not apply. On January 31, 1994, the claims board recommended that payment be made in the amount of \$3,500 based on equitable principles. See 1993 *Senate Journal*, p. 681.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

