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BILL ANALYSIS



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House Bill 4231 (as passed by the House)
Sponsor: Representative John Walsh
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 5-3-11

CONTENT

The bill would amend the Estates and Protected Individuals Code to allow a parent or guardian of a minor to release a person from liability for damages for personal injury to the minor during recreational activity.

Specifically, the bill would allow a parent or guardian of a minor, before the minor participated in a recreational activity, to release a person from liability for economic or noneconomic damages for personal injury sustained by the minor during the specific recreational activity for which the release was provided. A release would have to be in writing. The bill would apply only to a recreational activity sponsored or organized by a nongovernmental, nonprofit organization. "Recreational activity" would mean active participation in a recreational sport.

Either or both of the following could be released from liability:

- The sponsor or organizer of the recreational activity.
- An individual who was paid or volunteered to coach or assist in conducting the recreational activity.

A release under the bill would release only the sponsor, organizer, owner, lessee, or other person from liability for injury or death that resulted solely from the inherent risks of the recreational activity. A release would not limit the liability of the sponsor, organizer, owner, lessee, or other person for the sponsor's, organizer's, owner's, lessee's, or other person's own negligence or the negligence of its employees or agents that caused or contributed to the injury or death.

The bill would not restrict the limitation of liability afforded by Section 73301 of the Natural Resources and Environmental Protection Act. (That section provides that a cause of action does not arise for injuries to a person who is on the land of another, without paying, for various recreational purposes, unless the injuries were caused by gross negligence or willful and wanton misconduct.)

Proposed MCL 700.5109

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

To the extent that the bill reduced filings in local courts, it could result in modest savings for local units of government. The bill would have no fiscal impact on the State.

Fiscal Analyst: Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.