



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 379 (Substitute S-2 as reported)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act to limit to \$1 million the noneconomic damages recoverable against a governmental agency for bodily injury or property damage that resulted from the negligent operation of an "emergency vehicle", unless the injury or damage resulted from the agency's gross negligence. The limit on noneconomic damages would apply if, at the time of the occurrence that resulted in the injury or damage, the agency had in effect an emergency vehicle operation policy pursuant to the proposed "Model Emergency Vehicle Operation Policy Act"; the emergency vehicle were engaged in an emergency operation; the operator of the emergency vehicle were certified by the agency as meeting the minimum requirements established for emergency vehicle operators under the model Act, and that certification were in effect at the time of the occurrence; and during the occurrence, the operator were in substantial compliance with the emergency vehicle operation policy adopted by the governmental agency. The limit on noneconomic damages would not apply if the trier of fact determined that the bodily injury or property damage resulted from a governmental agency's gross negligence. ("Gross negligence" would be defined as it is in the governmental immunity Act, i.e., "conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results".) Each of these issues, as well as whether an injury or damage sustained by a person who violated fleeing and eluding laws arose from the violation, would be a question of law and could be decided by the court upon the motion of a party at any time before entry of judgment.

The bill would take effect on June 1, 1996, and is tie-barred to Senate Bill 378 and House Bill 4534, which would increase criminal penalties for fleeing and eluding; House Bill 4535, which would add fleeing and eluding to the list of crimes subject to forfeiture proceedings under the RJA; and House Bill 4536, which would create the "Model Emergency Vehicle Operation Policy Act".

MCL 600.6304 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would result in indeterminate savings to governmental agencies to the extent that future damages exceeded limits contained in the bill.

The Michigan Municipal League Liability Pool reports that over the past six years there were 11 payouts involving pursuit cases totaling \$4,004,000. The Michigan Municipal Risk Management Authority reports that from July 1988 through June 1993, 17 deaths and nine serious injuries arising from 22 police chases resulted in \$17.8 million in payments to date. These two organizations do not include the City of Detroit, Wayne County, Oakland County, or Macomb County.

Date Completed: 10-27-95

Fiscal Analyst: B. Bowerman

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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.