

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 319 (Substitute S-2 as reported by the Committee of the Whole)

Sponsor: Senator William Van Regenmorter

Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act (RJA) to limit noneconomic damages recoverable for injury or property damage resulting from the operation of a law enforcement vehicle. The limitation would not apply if the injury or damage resulted from an agency's gross negligence. In an action against two or more governmental agencies, the total amount of noneconomic damages recoverable by each plaintiff against all of the agencies could not exceed the total amount permitted under the bill. A person could not recover damages if he or she suffered an injury or property damage while fleeing and eluding in violation of the Michigan Penal Code or the Michigan Vehicle Code.

Noneconomic damages recoverable by each plaintiff against a governmental agency for bodily injury or property damage resulting from the negligent operation of a law enforcement vehicle could not exceed \$280,000. If the negligent operation of the vehicle caused either a person's death or permanent loss of a vital bodily function, however, the cap on total damages for noneconomic loss would be \$500,000.

The liability cap would apply if each of the following conditions were met: 1) the agency either adopted the model policy developed under, or had a law enforcement vehicle operation policy certified under the "Law Enforcement Pursuit and Response Policy Act" proposed by Senate Bill 320; 2) the vehicle was engaged in a law enforcement pursuit and response; 3) the driver was certified under the proposed policy Act at the time of the injury or property damage; and 4) the driver was in substantial compliance with the agency's pursuit and response policy. Whether these conditions were met, as well as the issues of gross negligence and fleeing and eluding, would be questions of law and could be decided by the court upon the motion of a party at any time before entry of judgment.

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 a six-year period there were 40 payouts involving pursuit cases totaling \$4.9 million in noneconomic damages due to negligent operation of a law enforcement vehicle. That liability pool includes approximately 800 members.

The Michigan Municipal Risk Management Authority reports that from July 1988 through October 1997, 22 deaths and 24 serious injuries arising from 39 police chases resulted in \$22.8 million in payments as of October 1997. The Authority includes approximately 280 members that have emergency vehicles.

These two organizations do not include the City of Detroit, Wayne County, Oakland County, or Macomb County.

Date Completed: 3-16-99

Fiscal Analyst: B. Bowerman

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Analysis available @ <http://www.michiganlegislature.org>

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.