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Senate Bill 923 (Substitute S-1)
Sponsor: Senator Mark C. Jansen
Committee: Judiciary

Date Completed: 5-22-14

CONTENT

The bill would amend the Estates and Protected Individuals Code (EPIC) to do the following:

- **Provide that a parent's or guardian's release of a person from liability for an injury sustained by a minor during a recreational activity could include the person's negligence, if the release specifically mentioned negligence.**
- **Specify that the release could not cover a person's gross negligence or intentional act.**
- **Include camping activities in the definition of "recreational activity".**
- **Specify that a release would not apply with respect to a camping activity unless the person responsible for the activity complied with all State requirements applicable to that person.**

Under EPIC, before a minor participates in a recreational activity, the minor's parent or guardian may 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 is provided. This provision applies to a recreational activity sponsored or organized by a nongovernmental, nonprofit organization. The sponsor or organizer of the recreational activity and/or an individual who is paid or volunteers to coach or assist in conducting the recreational activity may be released from liability.

A release described above only releases the sponsor, organizer, owner, lessee, or other person from liability for injury or death that results solely from the inherent risks of the recreational activity. The bill would delete "only" and "solely" from that provision.

Currently, a release does not limit the liability of the sponsor, organizer, owner, lessee, or other person for that person's own negligence or the negligence of its employees or agents that caused or contributed to the injury or death. Under the bill, however, a release could limit that person's liability for his or her own negligence or the negligence of employees or agents that caused or contributed to the injury or death, if the release specifically mentioned negligence. The release could not release a person from liability, however, for his or her gross negligence or intentional act.

Currently, "recreational activity" means active participation in an athletic or recreational sport. The bill also would refer to camping activities.

The bill specifies that the waiver provision would not apply to a sponsor, organizer, owner, lessee, or other person with respect to a camping activity, unless the person responsible for the camping activity was in compliance with all licensing requirements, statutes, and rules of the State that applied to that person.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: John Maxwell

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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.