

**CAMPING ACTIVITY:  
PARENTAL WAIVER OF LIABILITY FOR MINOR**

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**Senate Bill 672 (reported from House Committee as H-2)  
Sponsor: Sen. Goeff Hansen  
House Committee: Judiciary  
Senate Committee: Outdoor Recreation and Tourism  
Complete to 4-22-16**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 187 of 2016)*

**SUMMARY:**

The bill allows the parent or guardian of a minor child to provide a written release from liability before the child participates in a camping activity run by a nongovernmental, nonprofit organization.

Under the Estates and Protected Individuals Code (EPIC), the parent or guardian of a minor may provide a written release before the minor participates in a recreational activity. A "recreational activity" is defined to mean "active participation in a recreational sport." The release applies to liability for economic or noneconomic damages for a personal injury sustained by the minor during the specific recreational sport for which the release is provided, but only applies to liability for injury or death resulting solely from the inherent risks of the sport. A release does not limit the liability for negligence of the subject (minor child) of the release, or the negligence of the organization's employees or agents, that causes or contributes to the injury or death of the minor.

Senate Bill 672 amends EPIC to revise the definition of "recreational activity" to mean active participation in an athletic or recreational sport or in a camping activity. The bill also adds a definition for "camping activity"—a recreation activity planned and carried out by the owner and operator of a camp. The bill would take effect 90 days after enactment.

MCL 700.5109

**BRIEF DISCUSSION OF THE ISSUES:**

Senate Bill 672 clarifies that the statutory authority under EPIC for parents or guardians to release nongovernmental, nonprofit entities and their staff or volunteers from liability for damages for personal injuries sustained by children while actively participating in a recreational sport extends also to camping activities offered by the covered entities.

Generally speaking, common law rule (which was upheld by 2010 state Supreme Court ruling in *Woodman v Kera, LLC*, 486 MIC 228) says that a parent has no authority simply by virtue of the parental relationship to waive or release claims on behalf of their minor children. However, Public Act 61 of 2011 subsequently created a narrow exception to this rule to permit the use and enforceability of a parental waiver by nongovernmental, nonprofit entities that is limited to releasing the defendant for injury or death *resulting*

*solely from the inherent risks of the recreational activity.* PA 61 preserves the child's or his or her estate's right to sue if the defendant committed negligence that causes or contributes to the injury or death.

The rationale behind PA 61 was that governmental entities sponsoring children's programs enjoyed immunity from lawsuits, except for gross negligence, and that commercial ventures could obtain liability insurance, but that nonprofit organizations, under the *Woodman* decision, were in danger of no longer being able to provide recreational opportunities for children or find volunteers willing to serve as coaches if there was a fear that any injury could lead to a lawsuit. Nonprofit organizations provide valuable recreational experiences for children, and especially for children in low-income families; PA 61 enabled such programs to continue by offering some protection from lawsuits for injuries that no amount of safety planning, supervision, or diligence on the part of the organization could avoid.

Senate Bill 672 does not alter or expand the narrow exemption created by Public Act 61, but merely clarifies that activities offered in camping programs, whether conducted indoors or outdoors, are encompassed in the term "recreational activities."

#### **FISCAL IMPACT:**

The bill would have no fiscal impact on the state or on local units of government.

#### **POSITIONS:**

A representative of Michigan Christian Camps and Cran-Hill Ranch testified in support of the bill. (4-12-16)

The YMCA State Alliance of Michigan indicated support for the bill. (4-12-16)

The Michigan Association for Justice (the association of trial lawyers) indicated support for the bill. (4-12-16)

The Michigan Christian Camping Association indicated support for the bill. (4-12-16)

The Pine Ridge Bible Camp indicated support for the bill. (4-12-16)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.