



Senate Fiscal Agency  
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## BILL ANALYSIS



Telephone: (517) 373-5383  
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Senate Bill 672 (as enacted)  
Sponsor: Senator Goeff Hansen  
Senate Committee: Outdoor Recreation and Tourism  
House Committee: Judiciary

**PUBLIC ACT 187 of 2016**

Date Completed: 7-22-16

**RATIONALE**

The Estates and Protected Individuals Code allows a parent or guardian of a minor to release certain individuals from liability for personal injuries sustained by the minor during participation in a recreational activity. Such a release is used to protect the nonprofit organization that sponsors the activity from liability in the event a minor is injured or killed through some inherent risk of the activity. While many in the industry reportedly believe that recreational activities include participation in a camping activity, some contend that it is not clear whether a camping activity falls under the protection of the Code. It was suggested, therefore, that the Code's release provisions be extended to camping activities.

**CONTENT**

**The bill amends the Estates and Protected Individuals Code to allow a parent or guardian of a minor to release a person from liability for personal injuries sustained by the minor during participation in camping activities.**

The Code allows the parent or guardian of a minor, before the minor participates 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. The release must be in writing, and applies only to a recreational activity sponsored or organized by a nongovernmental, nonprofit organization.

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

- The sponsor or organizer of the recreational activity.
- An individual who is paid or volunteers to coach or assists in conducting the recreational activity.

The release only releases the sponsor, organizer, or other person from liability for injury or death that results solely from the inherent risks of the recreational activity, and does not apply to liability for that person's own negligence or the negligence of its employees or agents that causes or contributes to the injury or death.

"Recreational activity" means active participation in an athletic or recreational sport. Under the bill, the term also includes participation in a camping activity. The bill defines "camping activity" as a recreation activity planned and carried out by the owner and operator of a camp.

The bill will take effect on September 19, 2016.

MCL 700.5109

## **BACKGROUND**

Organizations that sponsor or provide recreational activities for youths generally require releases from liability for injuries to be signed by parents as a condition of a youth's participation. Such releases were held to be invalid by the Michigan Court of Appeals in 2008. In the case of *Woodman v. Kera, LLC* (280 Mich App 125), a parent executed a liability release for a five-year-old who subsequently broke his leg. On appeal, the Court applied a general common law rule that a parent has no authority to waive, release, or compromise the claims of his or her child by virtue of the parent-child relationship alone. While the Court invalidated the release, it did state that Michigan permits specific statutory exceptions to the general common law rule but noted that no such exception existed for the type of activity engaged in by the child in that case. In closing, the Court of Appeals invited the Legislature to examine the issue. In 2010, the judgment was affirmed by the Michigan Supreme Court (486 Mich 228), which also recommended that the Legislature address the issue of recreational liability releases for minors. The Legislature responded by enacting Public Act 61 of 2011, which amended the Estates and Protected Individuals Code to allow a parent or guardian to execute a release for a minor, as outlined above.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Camping is a well-regulated industry and an important component of tourism in Michigan. The camping industry relies on liability releases or waivers for protection in the event a minor is injured in the course of engaging in a camping activity. Many believe that the term "recreational activity" includes a camping activity; however, it is not clear from current law that this is actually the case. The bill clarifies that a camping activity is covered by liability releases used by the industry.

Legislative Analyst: Jeff Mann

## **FISCAL IMPACT**

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

Fiscal Analyst: Ryan Bergan

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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.