



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 470 (Substitute S-1 as reported)
Sponsor: Senator Walter H. North
Committee: Judiciary

Date Completed: 9-19-95

RATIONALE

Public Act 30 of 1987 amended the Good Samaritan law to grant immunity to a member of the national ski patrol system who, in good faith and while acting as a member of the ski patrol, renders emergency care at the scene of an emergency, except for instances of gross negligence or willful and wanton misconduct. Some people believe that the situations in which immunity is granted should not be limited to the provision of emergency care while someone is acting as a ski patrol member on the slopes, but should extend to other circumstances in which a ski patrol member might offer emergency care.

CONTENT

The bill would amend the Good Samaritan law to revise the circumstances under which immunity is granted to members of the national ski patrol. The law provides that a registered member of the national ski patrol system who, in good faith and while acting as a member of the ski patrol, renders "emergency care" at the scene of an emergency is not liable for civil damages as a result of acts or omissions in rendering care, except for "gross negligence" or willful and wanton misconduct. The bill would delete "while acting as a member of the national ski patrol system" from that provision, and would exclude from immunity a service, act, or omission that was outside the scope of the services and activities for which the ski patrol member had received training. Also, under the bill, "emergency care" would mean care that was necessary to stabilize a person who was reasonably suspected or known to be in imminent danger of significant health impairment or loss of life. "Gross negligence" would mean conduct so reckless that it demonstrated a substantial lack of concern for whether injury resulted.

MCL 691.1507

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

Ski patrol members receive extensive training in rendering emergency care. Although members volunteer to provide care on the ski slopes, they are capable of assisting in other circumstances, such as at the scene of a traffic accident. This action reflects the classic Good Samaritan situation: providing care, without compensation, when the person is not bound by duty to do so. Trained and registered members of the ski patrol, who are capable of providing emergency assistance, should be protected from liability claims when they render care at the scene of an accident whether on or off of the ski slopes.

Response: When the ski patrol immunity measure was enacted in 1987, the original bill reportedly applied to all situations in which a member rendered emergency care. The Legislature saw if at that time, to limit immunity to situations in which a registered ski patrol member was acting as a member of the ski patrol system. That was a good idea in 1987 and it is a good idea today.

Opposing Argument

Providing immunity from liability renders people unaccountable for their negligent conduct, which may not be good public policy. While offering that protection may serve as encouragement for medically trained personnel to provide care at the scene of an emergency, the bill would go too far. Ski patrol members receive first aid training, but are not necessarily medical professionals. In addition, their training is geared toward providing care to injured skiers. Encouraging them to provide care in other emergency situations, without holding them accountable for their actions, is inadvisable.

Response: The bill includes sufficient safeguards. As reported from committee, the substitute bill would exclude from immunity protection a service, act, or omission that was outside the scope of the services and activities for which the ski patrol member had received training.

Opposing Argument

The bill's definition of "emergency care" may be too restrictive and could run counter to the law's purpose of encouraging people to intervene in emergencies. For instance, if a ski patrol member assisting a skier who had fallen decided to be particularly cautious and bring the skier down the slope on a toboggan for further examination, even though there was no reasonable suspicion of significant health impairment, the ski patrol member could conceivably be held liable if the fallen skier tumbled out of the sled and subsequently was injured.

Legislative Analyst: P. Affholter

FISCAL IMPACT

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

Fiscal Analyst: M. Bain

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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.