



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 566 (as passed by the Senate)
Sponsor: Senator Marty Knollenberg
Committee: Judiciary

Date Completed: 3-7-16

RATIONALE

According to KidsAndCars.org, a nonprofit organization dedicated to preventing injuries and death to children in or around motor vehicles, since 1998, an average of 38 children have died each year in the United States due to heat stroke from being left in a vehicle. According to the American Veterinary Medicine Association, hundreds of pets die every year from heat exhaustion because they are left in parked vehicles. Some people believe that concern about liability for damage caused to a vehicle should not be a reason for someone not to forcibly enter a vehicle in which a child or pet may be in danger. It has been suggested that such an action should be excused from civil liability when a person believes in good-faith that forcible entry is necessary to rescue a child or animal.

CONTENT

The bill would create the "Emergency Minor and Animal Rescue Act" to excuse a person from civil liability for damage resulting from forcible entry into a motor vehicle to remove a minor or animal from the vehicle under certain circumstances.

Specifically, an individual who did all of the following would be immune from civil liability for any damage resulting from the forcible entry into a motor vehicle for the purpose of removing a minor or animal from the vehicle:

- Determined that the vehicle was locked and there otherwise was no reasonable method for the minor or animal to exit the vehicle.
- Had a good-faith belief that forcible entry into the vehicle was necessary because the minor or animal was in imminent danger of suffering harm if not immediately removed from the vehicle and the belief was reasonable based on the circumstances known at the time.
- Contacted the local law enforcement agency, fire department, or 9-1-1 operator before or after forcibly entering the vehicle.
- Placed a notice on the vehicle's windshield with his or her contact information, the reason for the entry, the location of the minor or animal, and a statement that the local authorities had been notified.
- Remained with the minor or animal in a safe location, out of the elements but reasonably close to the vehicle, until a law enforcement, fire, or other emergency responder arrived.

The person could not use any more force to enter the vehicle and remove the minor or animal than necessary under the circumstances.

The proposed Act would not affect an individual's civil liability if he or she attempted to render aid to a minor or animal beyond that authorized in the Act.

The bill would take effect 90 days after its enactment.

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

When a child or pet is left in a vehicle, whether intentionally or unintentionally, quick action might be needed to protect the child or animal from imminent danger, particularly due to rising temperatures inside the car on a warm or hot day. The air temperature inside an enclosed vehicle can quickly reach 100 degrees or more, even on a temperate day and even when the windows are slightly open. According to KidsAndCars.org, children have died from heat stroke in cars when the outdoor temperature was as low as 60 degrees. The organization also reports that at least eight children under 15 years of age died from vehicular heat stroke in Michigan between 1990 and 2010.

The law should not deter a person from taking appropriate actions to rescue a child or animal in distress inside a locked vehicle. If there is no other reasonable way for a child or animal to get out of the vehicle, a good-faith belief that forcible entry is necessary because the child or animal is in imminent danger should excuse a person from liability for damage caused by that entry. According to an article in *State Legislatures Magazine*, 34 states already have laws waiving liability for people who rescue unattended children left in vehicles, and new laws in a few other states provide immunity when a person breaks into a car to rescue a child or animal ("Go Ahead, Break and Enter", March 2016). Michigan should join those states by excusing a person from liability for damage caused by forcibly entering a vehicle when the person has a good-faith belief that a child or animal locked in the car is in imminent danger

Supporting Argument

While the bill would offer civil immunity to a person who acted in good faith to rescue a child or animal, it also includes provisions that should deter someone from exploiting that liability protection. In particular, a person would have to contact the local law enforcement office, fire department, or 9-1-1 operator either before or after forcibly entering a vehicle, and place a notice on the vehicle with his or her contact information, the location of the rescued child or animal, and a statement that local authorities had been notified. The person also would have to remain with the child or animal in a nearby, safe location until police, fire, or other emergency responders arrived.

Response: Incidents in which a child or pet is left in a hot car often occur in the parking area of a shopping mall or other commercial establishment. Perhaps notification of a security guard at such a facility should suffice, as an alternative to calling the police or fire department, or 9-1-1.

Opposing Argument

The bill should separate minors and animals into two different categories, as animals are considered property under the law. This distinction brings up several concerns that should be addressed in the case of a person who forcibly enters a vehicle that contains an animal. For instance, a dog confined in a vehicle may whine at being separated from its owner, scratch at the car windows, or bark at strangers who approach or pass by the vehicle, but these actions are not necessarily indications that the animal is in imminent danger. A person who unnecessarily broke into a vehicle under those circumstances should not be granted immunity.

Furthermore, if a dog attacked or bit a person who removed it from a vehicle, the dog's owner should not be held liable for the animal's actions, especially if the person's good-faith belief was not reasonable because the dog was not actually in imminent danger. Also, if an animal that was retrieved from a vehicle escaped (indicating that it likely was not in imminent danger), the person who intervened should not be protected from liability for the loss of the animal. The bill should address these concerns.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would 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.