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Fiscal Note

Drafting Number: LLS 23-0278
Prime Sponsors: Sen. Baisley
Rep. Lynch

Date: February 13, 2023
Bill Status: Senate Judiciary
Fiscal Analyst: Alexa Kelly | 303-866-3469
alexakelly@coleg.gov

Bill Topic: **UPDATE COLORADO RECREATIONAL USE STATUTE**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill changes the conditions under which a landowner is liable when damages occur as a result of individuals having access to the landowner's property for recreational purposes. It may minimally reduce state revenue and workload beginning in FY 2023-24.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill amends the Colorado Recreational Use Statute (CRUS) and makes changes to what a private landowner may be liable for when their property is used by individuals for recreational purposes.

When landowner liability is limited. A landowner that permits the use their land for recreational purposes does not:

- extend assurance that the land is safe or need to provide warning of any dangerous conditions;
- owe any duty of care to keep the land safe for entry or improve safety;
- assume responsibility or incur liability for emotional distress, incapacitation due to injury, medical expenses, or pain and suffering;
- assume liability for damages resulting from a public entity's management of the owner's land when the public entity is the lessee or holds an easement on the land; or
- assume liability when installing, or not installing, a sign or warning of dangerous conditions.

When landowner liability is not limited. A landowner that permits the use of their land for recreational purposes is considered liable when:

- there is malicious failure to guard or warn against dangerous conditions;
- an injury is suffered by a person who was charged a fee by the landowner;
- an attractive nuisance is maintained, except when land is used for active or inactive agricultural, mining, or gravel operations, water or water structures, or mineral and energy development; or
- an injury occurs on land where an active commercial or business enterprise exists.

Use restrictions by a landowner. On any part of their land, a landowner may restrict recreation, determine which recreational purposes and where the recreational purposes are allowed, or not allowed. To relay this information, a landowner may post signs at a trailhead or entrance, post a notice in a local newspaper, or notify the United States Forest Service, Bureau of Land Management, and Colorado Parks and Wildlife.

Historical use. The bill also specifies that the CRUS does not create a prescriptive easement on private land where a landowner has historically allowed the public to use their land for recreational purposes.

State Revenue & Expenditures

To the extent fewer lawsuits are filed against landowners, the bill may result in a slight reduction in revenue from filing fees, which are subject to TABOR, and trial court workload in the Judicial Department. Civil cases filed against landowners under CRUS are limited, and this fiscal note assumes landowners obey the laws governing the use of their land for recreational purposes and limit instances where they are held liable under the law. Any reduction of trial court activity is therefore assumed to be minimal and does not require a change in appropriations.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Judicial

Natural Resources