

CHAPTER 262

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 03-253

BY SENATOR(S) Chlouber, Arnold, Entz, Johnson S., Kester, McElhany, and Taylor;
also REPRESENTATIVE(S) White, Brophy, Crane, Garcia, Hefley, Miller, Rippy, Spence, Stengel, and Weddig.

AN ACT**CONCERNING THE VALIDATION OF CERTAIN PARENTAL LIABILITY WAIVERS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 22 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

13-22-107. Legislative declaration - definitions - children - waiver by parent of prospective negligence claims. (1) (a) ~~THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES IT IS THE PUBLIC POLICY OF THIS STATE THAT:~~

(I) ~~C~~ **C** HILDREN OF THIS STATE SHOULD HAVE THE MAXIMUM OPPORTUNITY TO PARTICIPATE IN SPORTING, RECREATIONAL, EDUCATIONAL, AND OTHER ACTIVITIES WHERE CERTAIN RISKS MAY EXIST;

(II) ~~P~~ **P** UBLIC, PRIVATE, AND NON-PROFIT ENTITIES PROVIDING THESE ESSENTIAL ACTIVITIES TO CHILDREN IN COLORADO NEED A MEASURE OF PROTECTION AGAINST LAWSUITS, AND WITHOUT THE MEASURE OF PROTECTION THESE ENTITIES MAY BE UNWILLING OR UNABLE TO PROVIDE THE ACTIVITIES;

(III) ~~P~~ **P** ARENTS HAVE A FUNDAMENTAL RIGHT AND RESPONSIBILITY TO MAKE DECISIONS CONCERNING THE CARE , CUSTODY, AND CONTROL OF THEIR CHILDREN. ~~THE LAW HAS LONG PRESUMED THAT PARENTS ACT IN THE BEST INTEREST OF THEIR CHILDREN.~~

(IV) ~~P~~ **P** ARENTS MAKE CONSCIOUS CHOICES EVERY DAY ON BEHALF OF THEIR CHILDREN CONCERNING THE RISKS AND BENEFITS OF PARTICIPATION IN ACTIVITIES THAT MAY INVOLVE RISK;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(V) THESE ARE PROPER PARENTAL CHOICES ON BEHALF OF CHILDREN THAT SHOULD NOT BE IGNORED. SO LONG AS THE DECISION IS VOLUNTARY AND INFORMED, THE DECISION SHOULD BE GIVEN THE SAME DIGNITY AS DECISIONS REGARDING SCHOOLING MEDICAL TREATMENT, AND RELIGIOUS EDUCATION; AND

(VI) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENCOURAGE THE AFFORDABILITY AND AVAILABILITY OF YOUTH ACTIVITIES IN THIS STATE BY PERMITTING A PARENT OF A CHILD TO RELEASE A PROSPECTIVE NEGLIGENCE CLAIM OF THE CHILD AGAINST CERTAIN PERSONS AND ENTITIES INVOLVED IN PROVIDING THE OPPORTUNITY TO PARTICIPATE IN THE ACTIVITIES.

(b) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE COLORADO SUPREME COURT'S HOLDING IN CASE NUMBER 00SC885, 48 P.3d 1229 (COLO. 2002), HAS NOT BEEN ADOPTED BY THE GENERAL ASSEMBLY AND DOES NOT REFLECT THE INTENT OF THE GENERAL ASSEMBLY OR THE PUBLIC POLICY OF THIS STATE.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHILD" MEANS A PERSON UNDER EIGHTEEN YEARS OF AGE.

(b) FOR PURPOSES OF THIS SECTION ONLY, "PARENT" MEANS A PARENT, AS DEFINED IN SECTION 19-1-103 (82), C.R.S., A PERSON WHO HAS GUARDIANSHIP OF THE PERSON, AS DEFINED IN SECTION 19-1-103 (60), C.R.S., A PERSON WHO HAS LEGAL CUSTODY, AS DEFINED IN SECTION 19-1-103 (73), C.R.S., A LEGAL REPRESENTATIVE, AS DEFINED IN SECTION 19-1-103 (73.5), C.R.S., A PHYSICAL CUSTODIAN, AS DEFINED IN SECTION 19-1-103 (84), C.R.S., OR A RESPONSIBLE PERSON, AS DEFINED IN SECTION 19-1-103 (94), C.R.S.

(3) A PARENT OF A CHILD MAY, ON BEHALF OF THE CHILD, RELEASE OR WAIVE THE CHILD'S PROSPECTIVE CLAIM FOR NEGLIGENCE.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PERMIT A PARENT ACTING ON BEHALF OF HIS OR HER CHILD TO WAIVE THE CHILD'S PROSPECTIVE CLAIM AGAINST A PERSON OR ENTITY FOR A WILLFUL AND WANTON ACT OR OMISSION, A RECKLESS ACT OR OMISSION, OR A GROSSLY NEGLIGENT ACT OR OMISSION.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 14, 2003