H.606

Introduced by Representative Rodgers of Glover

Referred to Committee on

Date:

Subject: Court procedures; assumption of risk; recreational activities; release

Statement of purpose: This bill proposes to permit adults to assume, for themselves and for their minor children, the risks inherent in recreational activities by releasing negligence claims arising out of the adult's or minor's participation in the activity.

An act relating to express assumption of risk and release from liability

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The general assembly finds:

(1) Persons in this state, including minor children, should have the maximum opportunity to participate in recreational, sporting, educational, and other activities where certain risks, including risks of personal injury or death, may exist.

(2) Public, private, and nonprofit entities providing recreational, sporting, educational, and other activities with risks to adults and minor children in Vermont need a measure of protection against lawsuits, without

which they may be unwilling or unable to provide the activities due to the overwhelming financial exposure.

(3) Parents have a fundamental right and responsibility to make decisions concerning the care, custody, and control of their minor children. The law has long presumed that parents act in the best interest of their minor children.

(4) Parents make conscious choices every day on behalf of their minor children concerning the risks and benefits of participation in activities that may involve risk. These are proper parental choices on behalf of minor 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.

(5) It is the public policy of the state of Vermont to encourage the availability of recreational, sporting, educational, and other activities with risks in this state by affording providers, including landowners and occupiers, instructors, and guides, with protection under the law where a participant in the activity has agreed to expressly assume its risks and release potential defendants from liability.

(6) It is the public policy of the state of Vermont to encourage the affordability and availability of youth activities in this state by permitting a parent of a minor child to release a negligence claim of the minor child arising

out of the child's participation in recreational, sporting, educational, or other activities with risks.

Sec. 2. 12 V.S.A. § 1037 is amended to read:

§ 1037. ACCEPTANCE OF INHERENT RISKS; WAIVER

(a) Notwithstanding the provisions of section 1036 of this title, a person who takes part in any sport accepts as a matter of law the dangers that inhere therein insofar as they are obvious and necessary.

(b) A participant in a recreational activity may expressly release another person from negligence claims arising out of participation in the activity.

(c) A parent of a minor child who participates in a recreational activity may expressly release another person from negligence claims arising out of the minor child's participation in the activity.

(d) Nothing in this section shall be construed to permit a parent acting on behalf of his or her minor child to waive a claim for the minor child based on a willful and wanton act or omission, or a grossly negligent act or omission.

(e) As used in this section, unless the context otherwise requires:

(1) "Minor child" means a person under 18 years of age.

(2) "Parent" means a parent of a minor child or a person who has legal guardianship of the child.