

BILL ANALYSIS

H.B. 1040
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties report that almost every individual participating in certain athletic competition has assumed the risk of that activity. The parties further note that there are certain protections from liability for this participation either by statute or case law. However, the parties are concerned that certain sports officials who officiate, judge, or enforce contest rules, along with certain sponsoring organizations, may not have the same type of liability protection as the individual participating in the athletic competition. The parties point to isolated incidents in which these officials have been involved in collisions resulting in injuries as examples of the need for such common-sense protections. H.B. 1040 seeks to address this issue relating to the liability of certain sports officials and organizations.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1040 amends the Civil Practice and Remedies Code to waive liability of a sports official who is engaged in an athletic competition for civil damages related to any act, error, or omission that results from a risk inherent in the nature of the competitive activity in which the claimant chose to participate unless the act, error, or omission constitutes gross negligence or wanton, wilful, or intentional misconduct. The bill bases the determination of whether a risk is inherent in the nature of a competitive activity on the nature of the sport in question, the conduct that is generally accepted in the sport, and whether the harm occurred during the pursuit of the purposes of the competition. The bill specifies that a mere violation of the rules of play of an athletic competition or failing to call a penalty, missing a call, or failing to enforce competition rules cannot in itself form the basis for liability under its provisions. The bill also waives liability of a sponsoring organization for an act, error, or omission of a sports official absent any new, independent, and separate act, error, or omission of the sponsoring organization that gave rise to the harm.

H.B. 1040 defines "sports official" as a person who officiates, judges, or in any manner enforces contest rules in any official capacity with respect to an interscholastic, intercollegiate, or other organized amateur athletic competition, including a referee, umpire, linesman, side judge, track or field marshal, timekeeper, or scorekeeper or any other person involved in supervising competitive play, or with respect to any rodeo, livestock show, or related event or competition. The bill defines "athletic competition" as any competitive group or solo sporting activity,

including football, baseball, soccer, basketball, hockey, swimming, track, wrestling, bike or foot races, triathlon, equestrian competitions, golf, marksmanship competitions, darts, billiards, Frisbee golf, fishing tournaments, car racing, and any similar activity that involves any aspect of physical competition, coordination, endurance, or stamina and including a rodeo, livestock show, or related event or competition. The bill defines "sponsoring organization" as the individual, club, association, or entity that undertakes to organize, underwrite, sanction, or promote an interscholastic, intercollegiate, or other organized amateur athletic competition or any rodeo, livestock show, or related event or competition.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.