

CS/HB 285

2010

1 A bill to be entitled
2 An act relating to parental authority; amending s. 549.09,
3 F.S.; providing that a motorsport liability release signed
4 by a minor is valid if the release is also signed by the
5 minor's parent or guardian; amending s. 744.301, F.S.;
6 authorizing natural guardians to waive and release, in
7 advance, any claim or cause of action that would accrue to
8 any of their minor children to the same extent that any
9 adult may do so on his or her own behalf; providing that
10 such waiver and release shall not relieve a party of
11 liability for any acts of intentional misconduct committed
12 against the minor child; providing that such waiver and
13 release shall not relieve a party of liability for gross
14 negligence against a minor child; specifying circumstances
15 under which an employer, principal, corporation, or other
16 legal entity may be liable for injuries sustained by a
17 minor child by conduct of an employee or agent; providing
18 an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Paragraph (g) of subsection (1) and subsection
23 (3) of section 549.09, Florida Statutes, are amended to read:

24 549.09 Motorsport nonspectator liability release.—

25 (1) As used in this section:

26 (g) "Nonspectators" means event participants who have
27 signed a motorsport liability release, including a minor if the
28 minor's parent or guardian has also signed the release.

29 (3) (a) A motorsport liability release may be signed by
 30 more than one person ~~if so long as~~ the release form appears on
 31 each page, or side of a page, which is signed. A motorsport
 32 liability release shall be printed in 8 point type or larger.

33 (b) A release signed by a minor is valid if the release is
 34 also signed by the minor's parent or guardian.

35 Section 2. Subsection (2) of section 744.301, Florida
 36 Statutes, is amended to read:

37 744.301 Natural guardians.—

38 (2) (a) Natural guardians are authorized, on behalf of any
 39 of their minor children, to:

40 1.(a) Settle and consummate a settlement of any claim or
 41 cause of action accruing to any of their minor children for
 42 damages to the person or property of any of said minor children;

43 2.(b) Collect, receive, manage, and dispose of the
 44 proceeds of any such settlement;

45 3.(c) Collect, receive, manage, and dispose of any real or
 46 personal property distributed from an estate or trust;

47 4.(d) Collect, receive, manage, and dispose of and make
 48 elections regarding the proceeds from a life insurance policy or
 49 annuity contract payable to, or otherwise accruing to the
 50 benefit of, the child; and

51 5.(e) Collect, receive, manage, dispose of, and make
 52 elections regarding the proceeds of any benefit plan as defined
 53 by s. 710.102, of which the minor is a beneficiary, participant,
 54 or owner,

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56 without appointment, authority, or bond, when the amounts
57 received, in the aggregate, do not exceed \$15,000.

58 (b) In addition to the authority granted in paragraph (a),
59 natural guardians are authorized, on behalf of any of their
60 minor children, to waive and release, in advance, any claim or
61 cause of action that would accrue to any of their minor children
62 to the same extent that any adult may do so on his or her own
63 behalf.

64 1. No waiver and release under this paragraph shall
65 relieve a released party of liability for injuries sustained by
66 a minor child for the released party's intentional misconduct,
67 including any act of sexual misconduct committed against the
68 minor child. As used in this paragraph, the term "intentional
69 misconduct" means that the released party had actual knowledge
70 of the wrongfulness of the conduct and the high probability that
71 injury to the minor child would result and, despite that
72 knowledge, pursued a course of conduct resulting in injury.

73 2. No waiver and release under this paragraph shall
74 relieve a released party of liability for injuries sustained by
75 a minor child for the released party's gross negligence if such
76 gross negligence is established by clear and convincing
77 evidence. As used in this paragraph, the term "gross negligence"
78 means conduct by act or omission so reckless or wanting in care
79 that it constituted a conscious disregard or indifference to the
80 life or safety of the minor child. In any civil action, no claim
81 or cause of action under this subparagraph shall be permitted
82 unless there is, along with the initial pleading, a reasonable
83 showing by evidence in the record or proffered by the claimant

84 that would provide a reasonable basis for stating a cause of
85 action for gross negligence.

86 3. Liability that has been established for injuries
87 sustained by a minor child under the circumstances described in
88 subparagraph 1. or subparagraph 2. may not be imposed against an
89 employer, principal, corporation, or other legal entity for the
90 conduct of its employee or agent unless the claimant
91 establishes, by clear and convincing evidence, that:

92 a. The employer, principal, corporation, or other legal
93 entity actively and knowingly participated in the employee's or
94 agent's conduct;

95 b. The officers or directors of the employer, principal,
96 corporation, or other legal entity knowingly condoned, ratified,
97 or consented to the employee's or agent's conduct; or

98 c. The employer, principal, corporation, or other legal
99 entity engaged in conduct that constituted intentional
100 misconduct or gross negligence and contributed to the injuries
101 suffered by the minor child.

102 Section 3. This act shall take effect July 1, 2010.