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LIMIT CIVIL SUITS BY FELONY PERPETRATORS

House Bill 5232
Sponsor: Rep. Jim Howell
Committee: Family and Civil Law

Complete to 1-28-00

A SUMMARY OF HOUSE BILL 5232 AS INTRODUCED 1-25-00

The bill would amend the Revised Judicature Act to require in certain circumstances that the court dismiss a civil action for damages for personal injury or death suffered by a person in the commission of a felony or during the immediate flight from the felony or while committing or fleeing from acts that could result in a conviction or determination of responsibility for a felony.

The bill refers throughout to a “perpetrator”, defined as an individual convicted of a felony; determined to be responsible for a felony under the juvenile justice provisions of the Probate Code; or who has committed acts that could result in a conviction or determination of responsibility for a felony. The term “felony” would be defined to mean a violation of this state or of the United States that is designated as a felony or that is punishable by death or imprisonment for more than one year.

Specifically, the bill would provide the following.

** The civil action would have to be dismissed with prejudice if the conviction or determination of responsibility was for certain itemized crimes in the Penal Code and Public Health Code. Costs and actual attorney fees would be awarded to each defendant. (The itemized crimes from the Penal Code are burning a dwelling; burning other real property; assault with intent to commit murder; assault with intent to do great bodily harm less than murder; assault with intent to maim; assault with intent to rob and steal – armed; attempt to murder; breaking and entering; home invasion; child sexually abusive activity; first and second degree murder; kidnaping; mayhem; first degree criminal sexual conduct; armed robbery; carjacking; and bank, safe, and vault robbery. The itemized crimes from the Public Health Code are those related to the manufacture, delivery, and possession of 650 grams or more of schedule 1 or 2 controlled substances. Itemized crimes also include an attempt to commit, a conspiracy to commit, and solicitation to commit such crimes, and include equivalent violations of federal law.)

** If the conviction or determination of responsibility was for other than an itemized crime and the perpetrator’s injury or death resulted from physical force, the civil action would not be dismissed unless the court found that the person who caused the injury or death acted 1) under a reasonable belief that physical force was reasonable and appropriate to prevent injury to himself or herself, or to others, using a degree of force that the person believed to be reasonable and necessary; or (2) under a reasonable belief that physical force was reasonable and appropriate to prevent the commission of a felony, using a degree of force that the person reasonably believed necessary for that purpose. If the standards were met, the case would be dismissed with prejudice and costs and actual attorney fees awarded to each defendant.

** The same standards listed in the paragraph above would be applied in cases in which all of the following were true: the perpetrator had not been convicted or determined responsible for a felony; the defendant alleged the plaintiff was a perpetrator of a felony; and in the civil action by the perpetrator, the court determined by clear and convincing evidence that the perpetrator committed acts that are the elements of a felony.

** If a plaintiff in a civil action was charged with a felony or a petition was filed claiming the plaintiff was responsible for a felony, the court would have to stay the civil action in regard to that plaintiff until final disposition of the felony case, including appeals, unless 1) a defendant moved to dismiss the civil action as a civil action caused by a perpetrator; and 2) the court found probable cause to believe the civil action was a civil action by a perpetrator.

MCL 600.2955b

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.