



THE SENATE OF MARYLAND
Annapolis, Maryland 21401

Testimony of Senator Jill P. Carter
In Favor of SB0452 – Courts - Prohibited Liability Agreements -
Recreational Facilities
Before the Judicial Proceedings Committee
On February 8th 2024

Mr. Chairman, Vice Chair, and Members of the Committee:

Senate Bill 0452 establishes that recreational facilities like gymnasiums and pools cannot use liability waivers signed prior to injury to absolve themselves of a patron's injury at their facility if it is found that it was the cause of negligence or neglect. This bill puts into Maryland law that any such liability waiver used for this reason would be null and void.

Recreational facilities still play an important role in our communities. According to the National Safety Council, sports and recreational injuries have increased by 12% since 2022, part of a sharp uptick since the COVID lockdowns ended. A study from the National Institute of Health indicates that neighborhood-level concerns are the primary factor for this, with the size of the recreational area as well as playing surfaces playing a role in injury concerns. This shows the value of not only a dedicated recreational space, but also a safe one.

Liability waiver forms can also be a useful and valuable resource for businesses to protect themselves from an injury claim. If someone visits a trampoline park, for example, and they try to perform a dangerous jump but land awkwardly and injure themselves, a liability waiver can correctly protect a business from being sued. Conversely, if someone visits a trampoline park and breaks through the trampoline while simply jumping up and down because the staff ignored a rusty spring or a threadbare trampoline surface, a liability waiver should not be able to protect a business who negligently let their equipment fall into disrepair. No rational person would have patronized the business if they had known that was the case.

There is such a precedent for this bill in Maryland case law. The State Court of Appeals case *Adloo v. H.T. Brown Real Estate Inc.* (1996) set Maryland's liability waiver policy that a liability waiver will be held invalid and unenforceable when a party to the contract is proven to have been trying to avoid liability for "intentional conduct of harm caused by reckless, wanton, or gross behavior".

SB0452 writes into Maryland law an important measure to protect Maryland residents from being entrapped into predatory waiver agreements that leave them vulnerable and unprotected in the event of negligence on behalf of an owner of a recreational facility.

I urge this committee to issue a favorable report in regards to SB0452. Thank you for your time.

Respectfully,

Jill P. Carter