



HOUSE BILL No. 5063

October 27, 1999, Introduced by Reps. Julian, Caul, Kukuk, Gilbert, Stamas, Toy, Woronchak, LaSata, Neumann, Cherry, Switalski, Spade, Dennis, O'Neill, Woodward, Callahan, Schauer, Thomas, Garza, Clark, Vaughn, Hardman, Pestka, Rivet, Prusi, Tesanovich, Bob Brown, Daniels, Stallworth, Quarles, Brewer, Kelly, LaForge, DeHart, Schermesser, Tabor, DeWeese, Garcia, Allen, Raczkowski and Lemmons and referred to the Committee on Family and Civil Law.

A bill to amend 1964 PA 170, entitled

"An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts,"

by amending section 7 (MCL 691.1407), as amended by 1996 PA 143.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 7. (1) Except as otherwise provided in this act, ~~all~~
2 ~~governmental agencies shall be~~ A GOVERNMENTAL AGENCY IS immune
3 from tort liability ~~in all cases wherein~~ IF the ~~government~~
4 GOVERNMENTAL agency is engaged in the exercise or discharge of a

1 governmental function. Except as otherwise provided in this act,
2 this act ~~shall not be construed as modifying or restricting~~
3 DOES NOT MODIFY OR RESTRICT the immunity of the state from tort
4 liability as it existed before July 1, 1965, which immunity is
5 affirmed.

6 (2) Except as otherwise provided in this section, and with-
7 out regard to the discretionary or ministerial nature of the con-
8 duct in question, each officer and employee of a governmental
9 agency, each volunteer acting on behalf of a governmental agency,
10 and each member of a board, council, commission, or statutorily
11 created task force of a governmental agency ~~shall be~~ IS immune
12 from tort liability for ~~injuries to persons or damages~~ AN
13 INJURY TO A PERSON OR DAMAGE to property caused by the officer,
14 employee, or member while in the course of employment or service
15 or CAUSED BY THE volunteer while acting on behalf of a governmen-
16 tal agency, if all of the following are met:

17 (a) The officer, employee, member, or volunteer is acting or
18 reasonably believes he or she is acting within the scope of his
19 or her authority.

20 (b) The governmental agency is engaged in the exercise or
21 discharge of a governmental function.

22 (c) The officer's, employee's, member's, or volunteer's con-
23 duct does not amount to gross negligence that is ~~the~~ A proxi-
24 mate cause of the injury or damage. As used in this subdivision,
25 "gross negligence" means conduct so reckless as to demonstrate a
26 substantial lack of concern for whether an injury results.

1 (3) Subsection (2) ~~shall~~ DOES not ~~be construed as~~
2 ~~altering~~ ALTER the law of intentional torts as it existed before
3 July 7, 1986.

4 (4) This act does not grant immunity to a governmental
5 agency OR AN EMPLOYEE OR AGENT OF A GOVERNMENTAL AGENCY with
6 respect to ~~the ownership or operation of a hospital or county~~
7 ~~medical care facility or to the agents or employees of such~~
8 MEDICAL CARE PROVIDED IN A hospital or county medical care
9 facility. As used in this subsection:

10 (a) "County medical care facility" means that term as
11 defined in section 20104 of the public health code, ~~Act No. 368~~
12 ~~of the Public Acts of 1978, being section 333.20104 of the~~
13 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.20104.

14 (b) "Hospital" means a facility offering inpatient, over-
15 night care, and services for observation, diagnosis, and active
16 treatment of an individual with a medical ~~, surgical, obstetric,~~
17 ~~chronic, or rehabilitative~~ condition requiring the daily direc-
18 tion or supervision of a physician. ~~The term~~ HOSPITAL does not
19 include a ~~hospital~~ MENTAL HEALTH FACILITY owned or operated by
20 the department of ~~mental~~ COMMUNITY health or a ~~hospital~~
21 HEALTH FACILITY operated by the department of corrections.

22 (5) Judges, legislators, and the elective or highest
23 appointive executive officials of all levels of government are
24 immune from tort liability for injuries to persons or damages to
25 property ~~whenever they are~~ IF THE JUDGE, LEGISLATOR, OR OFFI-
26 CIAL IS acting within the scope of ~~their~~ HIS OR HER judicial,
27 legislative, or executive authority.

1 (6) A guardian ad litem is immune from civil liability for
2 ~~injuries to persons or damages~~ AN INJURY TO A PERSON OR DAMAGE
3 to property ~~whenever~~ IF he or she is acting within the scope of
4 his or her authority as guardian ad litem. This subsection
5 applies to actions filed before, on, or after ~~the effective date~~
6 ~~of the amendatory act that added this subsection~~ MAY 1, 1996.

7 Enacting section 1. This amendatory act applies only to
8 causes of action arising on or after the effective date of this
9 amendatory act.