

# HOUSE BILL No. 5092

August 8, 2007, Introduced by Rep. Schuitmaker and referred to the Committee on Judiciary.

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, employees, and volunteers and for paying damages sought or awarded against them; to provide for the legal defense of public officers, employees, and volunteers; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal acts and parts of acts,"

by amending section 1 (MCL 691.1401), as amended by 2001 PA 131.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:

2       (A) "GOVERNMENTAL AGENCY" MEANS THIS STATE OR A POLITICAL

1 SUBDIVISION.

2 (B) "GOVERNMENTAL FUNCTION" MEANS AN ACTIVITY THAT IS  
3 EXPRESSLY OR IMPLIEDLY MANDATED OR AUTHORIZED BY CONSTITUTION,  
4 STATUTE, LOCAL CHARTER OR ORDINANCE, OR OTHER LAW. GOVERNMENTAL  
5 FUNCTION INCLUDES THE FOLLOWING:

6 (i) AN ACTIVITY, AS DIRECTED OR ASSIGNED BY HIS OR HER PUBLIC  
7 EMPLOYER FOR THE PURPOSE OF PUBLIC SAFETY, PERFORMED ON PUBLIC OR  
8 PRIVATE PROPERTY BY A SWORN LAW ENFORCEMENT OFFICER WITHIN THE  
9 SCOPE OF THE LAW ENFORCEMENT OFFICER'S AUTHORITY.

10 (ii) PROVIDING OR MAINTAINING SAFETY AND RESCUE EQUIPMENT OR  
11 MEANS OF COMMUNICATION WITH OUTSIDE SOURCES OF ASSISTANCE AT A  
12 PUBLIC BATHING BEACH.

13 (C) "HIGHWAY" MEANS A PUBLIC HIGHWAY, ROAD, OR STREET THAT IS  
14 OPEN FOR PUBLIC TRAVEL AND INCLUDES A BRIDGE, SIDEWALK, TRAILWAY,  
15 CROSSWALK, OR CULVERT ON THE HIGHWAY. HIGHWAY DOES NOT INCLUDE AN  
16 ALLEY, TREE, OR UTILITY POLE.

17 (D) ~~(a)~~-"Municipal corporation" means a city, village, or  
18 township or a combination of 2 or more of these when acting  
19 jointly.

20 (E) ~~(b)~~-"Political subdivision" means a municipal corporation,  
21 county, county road commission, school district, community college  
22 district, port district, metropolitan district, or transportation  
23 authority or a combination of 2 or more of these when acting  
24 jointly; a district or authority authorized by law or formed by 1  
25 or more political subdivisions; or an agency, department, court,  
26 board, or council of a political subdivision.

27 (F) ~~(c)~~-"State" means ~~the~~ **THIS** state ~~of Michigan~~ and its

1 agencies, departments, commissions, courts, boards, councils, and  
2 statutorily created task forces and includes every public  
3 university and college of the state, whether established as a  
4 constitutional corporation or otherwise.

5 ~~—— (d) "Governmental agency" means the state or a political~~  
6 ~~subdivision.~~

7 ~~—— (e) "Highway" means a public highway, road, or street that is~~  
8 ~~open for public travel and includes bridges, sidewalks, trailways,~~  
9 ~~crosswalks, and culverts on the highway. The term highway does not~~  
10 ~~include alleys, trees, and utility poles.~~

11 ~~—— (f) "Governmental function" is an activity that is expressly~~  
12 ~~or impliedly mandated or authorized by constitution, statute, local~~  
13 ~~charter or ordinance, or other law. Governmental function includes~~  
14 ~~an activity, as directed or assigned by his or her public employer~~  
15 ~~for the purpose of public safety, performed on public or private~~  
16 ~~property by a sworn law enforcement officer within the scope of the~~  
17 ~~law enforcement officer's authority.~~

18 (g) "Township" includes charter township.

19 (h) "Volunteer" means an individual who is specifically  
20 designated as a volunteer and who is acting solely on behalf of a  
21 governmental agency.