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TORT IMMUNITY; REPORTING INJURY CAUSED BY VIOLENCE

House Bill 4711

Sponsor: Rep. Judith Scranton

Committee: Criminal Law and Corrections

Complete to 9-29-99

A SUMMARY OF HOUSE BILL 4711 AS INTRODUCED 5-19-99

Under the Michigan Penal Code, hospitals, pharmacies, and physicians have a duty to report to law enforcement officials when they become aware of a person with an injury caused by violence. A violation of this provision of law is a misdemeanor.

House Bill 4711 would amend the penal code to specify that, to the extent not protected by the immunity conferred under the governmental immunity act, a person who makes a such a report in good faith, or one who cooperates in good faith in an investigation, civil proceeding, or criminal proceeding resulting from such a report, would be immune from civil or criminal liability for that action. The bill specifies that a person making a report or cooperating in an investigation would be presumed to be acting in good faith, and that presumption could be rebutted only by clear and convincing evidence.

The immunity granted under the bill would extend only to the act of reporting or cooperating in an investigation as described in the bill, and would not extend to another act or omission that was negligent or amounted to malpractice, or both, and that caused personal injury or death.

Further, the physician-patient privilege or health professional-patient privilege created or recognized under law would not apply to a report described in the bill, and would not be a valid reason for failing to comply with the duty to report; nor would such a privilege be a defense to a misdemeanor charge of failing to report an injury caused by violence.

The bill would take effect September 1, 1999.

MCL 750.411

Analyst: D. Martens

■ 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.