

HOUSE BILL No. 4960

June 14, 2001, Introduced by Rep. Patterson and referred to the Committee on Civil Law and the 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 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 14 (MCL 691.1414).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14. ~~Chapter 22 of Act No. 283 of the Public Acts of~~
2 ~~1909, as amended, being sections 242.1 to 242.8 of the Compiled~~
3 ~~Laws of 1948; section 2904 of Act No. 236 of the Public Acts of~~
4 ~~1961, being section 600.2904 of the Compiled Laws of 1948; Act~~

1 ~~No. 59 of the Public Acts of 1951, as amended, being sections~~
2 ~~124.101 to 124.103 of the Compiled Laws of 1948, are repealed.~~

3 (1) A GOVERNMENTAL AGENCY IS LIABLE FOR DAMAGES IN AN ACTION
4 FOR TRESPASS-NUISANCE FOR PROPERTY DAMAGE OR PERSONAL INJURY OR
5 DEATH IF THE CLAIMANT PROVES BOTH OF THE FOLLOWING:

6 (A) THE PHYSICAL INTRUSION IS OF WATER OR SEWER FLOWING FROM
7 A SEWAGE OR DRAIN SYSTEM.

8 (B) EITHER OF THE FOLLOWING:

9 (i) THE SEWER OR DRAIN SYSTEM IS UNDER THE JURISDICTION AND
10 CONTROL OF THE GOVERNMENTAL AGENCY.

11 (ii) THE GOVERNMENTAL AGENCY'S NEGLIGENCE CAUSED THE PHYSI-
12 CAL INTRUSION.

13 (2) AS USED IN THIS SECTION, "TRESPASS-NUISANCE" MEANS A
14 DIRECT TRESPASS UPON, OR THE INTERFERENCE WITH THE USE OR ENJOY-
15 MENT OF, LAND THAT RESULTS FROM A PHYSICAL INTRUSION.