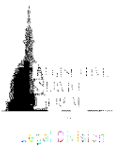


HOUSE BILL NO. 5600

March 10, 2020, Introduced by Reps. Afendoulis, Hornberger, LaFave, Hall, Rendon, Steven Johnson and Maddock and referred to the Committee on Local Government and Municipal Finance.

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



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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 sections 1, 7, and 11 (MCL 691.1401, 691.1407, and 691.1411), section 1 as amended by 2012 PA 50 and section 7 as amended by 2013 PA 173, and by adding sections 7d and 7e.

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
3 subdivision.

4 (b) "Governmental function" means an activity that is
5 expressly or impliedly mandated or authorized by constitution,
6 statute, local charter or ordinance, or other law. Governmental
7 function includes an activity performed on public or private
8 property by a sworn law enforcement officer within the scope of the
9 law enforcement officer's authority, as directed or assigned by his
10 or her public employer for the purpose of public safety.

11 (c) "Highway" means a public highway, road, or street that is
12 open for public travel. Highway includes a bridge, sidewalk,
13 trailway, crosswalk, or culvert on the highway. Highway does not
14 include an alley, tree, or utility pole.

15 (d) **"Homeland Security" means the United States Department of**
16 **Homeland Security.**

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

20 (f) ~~(e)~~—"Political subdivision" means a municipal corporation,
21 county, county road commission, school district, community college
22 district, port district, metropolitan district, or transportation



1 authority or a combination of 2 or more of these when acting
2 jointly; a district or authority authorized by law or formed by 1
3 or more political subdivisions; or an agency, department, court,
4 board, or council of a political subdivision.

5 (g) "Sanctuary city" means a political subdivision that adopts
6 an ordinance, policy, or practice that prohibits or restricts the
7 political subdivision or an officer, employee, member, or volunteer
8 of the political subdivision from doing either of the following:

9 (i) Sending, receiving, maintaining, or exchanging information
10 with any federal, state, or local governmental agency regarding the
11 citizenship or immigration status of an individual.

12 (ii) Complying with a lawful request of Homeland Security made
13 under section 236 or 287 of the immigration and nationality act, 8
14 USC 1226 and 1357.

15 (h) ~~(f)~~—"Sidewalk", except as used in subdivision (c), means a
16 paved public sidewalk intended for pedestrian use situated outside
17 of and adjacent to the improved portion of a highway designed for
18 vehicular travel.

19 (i) ~~(g)~~—"State" means this state and its agencies,
20 departments, commissions, courts, boards, councils, and statutorily
21 created task forces. State includes a public university or college
22 of this state, whether established as a constitutional corporation
23 or otherwise.

24 (j) ~~(h)~~—"Township" means a general law township or a charter
25 township.

26 (k) ~~(i)~~—"Volunteer" means an individual who is specifically
27 designated as a volunteer and who is acting solely on behalf of a
28 governmental agency.

29 Sec. 7. (1) Except as otherwise provided in this act, a



1 governmental agency is immune from tort liability if the
2 governmental agency is engaged in the exercise or discharge of a
3 governmental function. Except as otherwise provided in this act,
4 this act does not modify or restrict the immunity of the state from
5 tort liability as it existed before July 1, 1965, which immunity is
6 affirmed.

7 (2) Except as otherwise provided in this section **and section**
8 **7e**, and without regard to the discretionary or ministerial nature
9 of the conduct in question, each officer and employee of a
10 governmental agency, each volunteer acting on behalf of a
11 governmental agency, and each member of a board, council,
12 commission, or statutorily created task force of a governmental
13 agency is immune from tort liability for an injury to a person or
14 damage to property caused by the officer, employee, or member while
15 in the course of employment or service or caused by the volunteer
16 while acting on behalf of a governmental agency if all of the
17 following are met:

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

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

23 (c) The officer's, employee's, member's, or volunteer's
24 conduct does not amount to gross negligence that is the proximate
25 cause of the injury or damage.

26 (3) Subsection (2) does not alter the law of intentional torts
27 as it existed before July 7, 1986.

28 (4) This act does not grant immunity to a governmental agency
29 or an employee or agent of a governmental agency with respect to



1 providing medical care or treatment to a patient, except medical
 2 care or treatment provided to a patient in a hospital owned or
 3 operated by the department of ~~community~~ health **and human services**
 4 or a hospital owned or operated by the department of corrections
 5 and except care or treatment provided by an uncompensated search
 6 and rescue operation medical assistant or tactical operation
 7 medical assistant.

8 (5) A judge, a legislator, and the elective or highest
 9 appointive executive official of all levels of government are
 10 immune from tort liability for ~~injuries to persons~~ **an injury to a**
 11 **person** or ~~damages~~ **damage** to property if he or she is acting within
 12 the scope of his or her judicial, legislative, or executive
 13 authority.

14 (6) A guardian ad litem is immune from civil liability for an
 15 injury to a person or damage to property if he or she is acting
 16 within the scope of his or her authority as guardian ad litem. This
 17 subsection applies to actions filed before, on, or after May 1,
 18 1996.

19 (7) The immunity provided by this act does not apply to
 20 liability of a governmental agency under the MISS DIG underground
 21 facility damage prevention and safety act, **2013 PA 174, MCL 460.721**
 22 **to 460.733.**

23 (8) As used in this section:

24 (a) "Gross negligence" means conduct so reckless as to
 25 demonstrate a substantial lack of concern for whether an injury
 26 results.

27 (b) "Search and rescue operation" means an action by a
 28 governmental agency to search for, rescue, or recover victims of a
 29 natural or manmade disaster, accident, or emergency on land or



1 water.

2 (c) "Search and rescue operation medical assistant" means an
3 individual licensed to practice 1 or more of the occupations listed
4 in subdivision (e), acting within the scope of the license, and
5 assisting a governmental agency in a search and rescue operation.

6 (d) "Tactical operation" means a coordinated, planned action
7 by a special operations, weapons, or response team of a law
8 enforcement agency that is 1 of the following:

9 (i) Taken to deal with imminent violence, a riot, an act of
10 terrorism, or a similar civic emergency.

11 (ii) The entry into a building, area, watercraft, aircraft,
12 land vehicle, or body of water to seize evidence, or to arrest an
13 individual for a felony, under the authority of a warrant issued by
14 a court.

15 (iii) Training for the team.

16 (e) "Tactical operation medical assistant" means an individual
17 licensed to practice 1 or more of the following, acting within the
18 scope of the license, and assisting law enforcement officers while
19 they are engaged in a tactical operation:

20 (i) Medicine, osteopathic medicine and surgery, or as a
21 registered professional nurse, under article 15 of the public
22 health code, 1978 PA 368, MCL 333.16101 to 333.18838.

23 (ii) As an emergency medical technician, emergency medical
24 technician specialist, or paramedic under part 209 of the public
25 health code, 1978 PA 368, MCL 333.20901 to 333.20979.

26 **Sec. 7d. (1) A sanctuary city is liable for personal injury,**
27 **property damage, or death that directly results from the commission**
28 **of a felony in the sanctuary city committed by an individual who is**
29 **not a citizen of or lawfully present in the United States.**



1 (2) An individual who is personally injured, a person whose
2 property is damaged, or the spouse, parent, or child of an
3 individual whose death is the direct result of the commission of a
4 felony in a sanctuary city may commence a civil action against the
5 sanctuary city.

6 (3) As used in this section, "felony" means that term as
7 defined in section 7 of the Michigan penal code, 1931 PA 328, MCL
8 750.7.

9 Sec. 7e. (1) If a political subdivision complies with a
10 detainer issued by Homeland Security under section 236 or 287 of
11 the immigration and nationality act, 8 USC 1226 and 1357, the
12 political subdivision is acting as an agent of Homeland Security,
13 and the political subdivision must comply with section 287(d) of
14 the immigration and nationality act, 8 USC 1357(d), and 8 CFR
15 287.5(d).

16 (2) A political subdivision is not liable for an action it
17 takes in accordance with a detainer issued by Homeland Security
18 under section 236 or 287 of the immigration and nationality act, 8
19 USC 1226 and 1357.

20 (3) An officer, employee, member, or volunteer of a political
21 subdivision is not liable for an action he or she takes in
22 accordance with a detainer issued by Homeland Security under
23 section 236 or 287 of the immigration and nationality act, 8 USC
24 1226 and 1357.

25 (4) The immunity provided by this section does not apply if
26 the political subdivision or the officer, employee, member, or
27 volunteer of a political subdivision knowingly violates a civil or
28 constitutional right of an individual.

29 Sec. 11. (1) ~~Every~~ ~~A~~ claim against ~~any~~ ~~a~~ governmental agency



1 ~~shall be~~ **is** subject to the general law ~~respecting~~ **regarding**
2 limitations of actions except as otherwise provided in this
3 section.

4 (2) The period of limitations for claims arising under section
5 ~~2 of this act shall be~~ **is** 2 years.

6 (3) The period of limitations for all claims against the
7 state, except those arising under section 2, ~~of this act,~~ shall be
8 **is** governed by chapter 64 of ~~Act No. 236 of the Public Acts of~~
9 ~~1961.~~ **the revised judicature act of 1961, 1961 PA 236, MCL 600.6401**
10 **to 600.6475.**

11 (4) The period of limitations for an action against a
12 political subdivision under section 7d is 10 years after the
13 commission of the felony or 10 years after the death of an
14 individual whose death is the direct result of the commission of
15 the felony, whichever is later.

