

HOUSE BILL NO. 5022

June 15, 2021, Introduced by Reps. Tyrone Carter, Yancey, Aiyash, Scott, Cavanagh, Puri, Brabec, Stone, Hertel, Sowerby, Brixie, O'Neal, Rogers, Neeley, Brenda Carter, Thanedar, Weiss, Cynthia Johnson, Young, Whitsett, Rabhi and Jones and referred to the Committee on Government Operations.

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,"

(MCL 691.1401 to 691.1419) by adding section 7d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7d. (1) An individual described in section 7(2) is not
2 immune from tort liability that arises from an unreasonable use of
3 physical force against another individual.

4 (2) In determining the reasonableness of the use of physical
5 force for purposes of subsection (1), the finder of fact shall
6 consider the totality of the circumstances, including, but not
7 limited to, all of the following:

8 (a) The crime the individual against whom the force was used
9 was suspected to have committed.

10 (b) Whether the individual against whom the force was used
11 posed an immediate threat of physical harm to the individual who
12 used the force or any other individual.

13 (c) Whether the force used was proportionate to the alleged
14 threat posed by the individual against whom the force was used.

15 (d) Whether the individual who used the force had first
16 attempted to employ nonviolent means to accomplish his or her
17 objectives.

18 (3) In an action for damages arising from an unreasonable use
19 of force as described in subsection (1), it is not a defense that
20 the individual who used the force acted in good faith or without
21 malice.

22 Enacting section 1. This amendatory act does not take effect
23 unless all of the following bills of the 101st Legislature are
24 enacted into law:

25 (a) Senate Bill No. ____ or House Bill No. 5023 (request no.

1 02892'21).

2 (b) Senate Bill No. _____ or House Bill No. 5024 (request no.

3 03293'21).