Chapter 691

JUDICIARY

RESIGNATION OR RETIREMENT OF SUPREME COURT JUSTICES

Act 122 of 1925

691.2 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

RULES OF APPELLATE PROCEDURE

Act 27 of 1929

691.21 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

JUDICIAL COUNCIL

Act 64 of 1929

691.31-691.33 Repealed. 1955, Act 180, Eff. Oct. 14, 1955.

STATE BAR OF MICHIGAN

Act 58 of 1935

691.51,691.52 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

THE COURT OF CLAIMS ACT

Act 135 of 1939

691.101-691.123a Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

ABOLISHING DEFENSE OF GOVERNMENTAL FUNCTION

Act 87 of 1945

691.141 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

ABOLISHING DEFENSE OF GOVERNMENTAL FUNCTION

Act 127 of 1945

691.151-691.152 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

PRESIDING CIRCUIT JUDGE

Act 213 of 1915

691.201-691.203 Repealed. 1954, Act 195, Eff. Aug. 13, 1954.

ABSENCE OR DISABILITY OF CIRCUIT JUDGE

Act 104 of 1925

691.211-691.213 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

DEATH OF JUDGE

Act 242 of 1915

691.221 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

SPECIAL TERMS OF CIRCUIT COURTS

Act 313 of 1927

691.231-691.233 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

TERMS OF COURT; INGHAM COUNTY

Act 125 of 1895

691.248,691.252 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

TERMS OF COURT; CALHOUN COUNTY

Act 272 of 1905

691.261-691.266 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

RESIGNATION OR RETIREMENT OF CIRCUIT JUDGE

Act 91 of 1929

691.271,691.272 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

CIRCUIT COURT COMMISSIONER; ADDITIONAL SALARY

Act 224 of 1921

691.281 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

CIRCUIT COURT STENOGRAPHERS

Act 183 of 1897

691.301-691.352 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

CIRCUIT COURT JURY

Act 270 of 1941

691.401,691.402 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

SELECTION OF JURORS IN UPPER PENINSULA

Act 26 of 1895

691.411-691.416 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

JURY OF 14

Act 93 of 1931

691.421,691.423 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

CHARGE OR INSTRUCTION TO JURY

Act 67 of 1869

691.431-691.434 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

BOARD OF JURY COMMISSIONERS; WAYNE COUNTY

Act 204 of 1893

691.441-691.466 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

JURORS; WAYNE COUNTY

Act 31 of 1903

691.473,691.474 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

PUBLIC SECURITIES VALIDATION ACT

Act 161 of 1959

691.481-691.492 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

DECLARATIONS OF RIGHTS

Act 36 of 1929

691.501-691.507 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

ACTIONS BY AND AGAINST COMMON CARRIERS

Act 315 of 1927

691.521-691.524 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

MINORS' CONTRACTS

Act 123 of 1941

691.531 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

THIRD PARTY BENEFICIARIES

Act 296 of 1937

691.541-691.545 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

JOINT TORT-FEASORS

Act 303 of 1941

691.561-691.564 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

JOINT TORT-FEASORS IN LIBEL CASES

Act 233 of 1911

691.571 Repealed. 1961, Act 236, Eff. Jan. 1, 1960.

DEATH BY WRONGFUL ACT

Act 38 of 1848

691.581-691.583 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

MARRIAGE AS BAR TO ACTION FOR DAMAGES

Act 280 of 1905

691.591 Repealed. 1961, Act 236, Eff. Jan. 1, 1960.

PROCESS AGAINST DOMESTIC INSURANCE COMPANY

Act 255 of 1929

691.601 Repealed. 1961, Act 236, Eff. Jan. 1, 1960.

PUBLICATION OF NOTICES IN NEWSPAPER

Act 294 of 1929

691.611,691.612 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

Revised Statutes of 1846

R.S. of 1846

691.626 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

UNIFORM FOREIGN DEPOSITIONS ACT

Act 179 of 1921

691.631-691.633 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

UNIFORM PROOF OF STATUTES ACT

Act 178 of 1921

691.641-691.643 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

LIBRARY RECORDS

Act 142 of 1925

691.651-691.654 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

STATE, LOCAL GOVERNMENTAL, AND MUNICIPAL COURT RECORDS

Act 7 of 1941

691.661,691.662 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

PHYSICAL EXAMINATION OF PARTIES

Act 18 of 1941

691.671 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

DISCONTINUANCE OR NON-SUIT

Act 200 of 1915

691.681 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

JUDGMENT NOTWITHSTANDING VERDICT

Act 217 of 1915

691.691-691.693 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

JUDGMENT AFTER DISAGREEMENT OF JURY

Act 73 of 1927

691.701 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

INSTALLMENT PAYMENT OF JUDGMENTS

Act 106 of 1935

691.711-691.721 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

TOWNSHIP BONDS

Act 144 of 1897

691.731-691.737 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

FILING SECURITY FOR DAMAGES OR COSTS BY UNITED STATES

Act 13 of 1937

691.751 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

CITY BONDS

Act 86 of 1911

691.761,691.762 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

CASH OR SECURITIES IN LIEU OF BAIL OR BOND

Act 212 of 1929

691.771-691.776 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

GARNISHMENT; MILK OR CREAM PRODUCERS

Act 31 of 1937

691.781 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

ASSIGNMENT OF FUTURE WAGES

Act 184 of 1933

691.801-691.813 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

Revised Statutes of 1846

R.S. of 1846

691.830-691.843 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

REPLEVIN AND ATTACHMENT

Act 84 of 1925

691.851 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

SALARIES OF JUSTICES

Act 214 of 1917

691.871-691.873 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

SALARIES OF CLERKS IN JUSTICE COURTS

Act 151 of 1919

691.881-691.883 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

JUSTICE COURT FEES

Act 185 of 1921

691.891 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

ASSIGNMENTS OF ACCOUNTS RECEIVABLE

Act 309 of 1945

691.901-691.911 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

ADMISSION IN EVIDENCE OF PHOTOSTATIC BUSINESS RECORDS

Act 304 of 1949

691.921 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

REPRODUCTION OF FILED OR RECORDED DOCUMENTS

Act 116 of 1956

691.931-691.934 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

ADDITIONAL PLACE FOR HOLDING CIRCUIT COURT; ST. JOSEPH COUNTY

Act 130 of 1957

691.951,691.952 Repealed. 1961, Act 236, Eff. Jan. 1, 1963.

EMERGENCY INTERIM JUDICIAL SUCCESSION ACT

Act 227 of 1963

AN ACT to provide, in the event of an enemy attack on the United States, for the continuity of judicial functions of the state and the political subdivisions, by providing for automatic interim emergency succession for judges.

History: 1963, Act 227, Eff. Sept. 6, 1963

The People of the State of Michigan enact:

691.971 Emergency interim judicial succession act; short title.

Sec. 1.

This act shall be known and may be cited as the "emergency interim judicial succession act".

History: 1963, Act 227, Eff. Sept. 6, 1963
Compiler's Notes: The enrolled bill was presented to the Governor on May 8, 1963, and became a law without his approval upon the expiration of 10 days, Sundays excepted, after presentation.

691.972 Emergency interim judicial succession act; definitions.

Sec. 2.

As used in this act:

(a) "Unavailable" means that the lawful incumbent of the office is absent or unable to exercise the powers and discharge the duties of the office.

(b) "Emergency interim successor" means a person designated pursuant to this act who, in the event the judge is unavailable, is to exercise the powers and discharge the duties of office until a successor is appointed or elected and qualified as may be provided by law or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or processes.

(d) "Political subdivisions" includes counties, cities, towns, villages, townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

History: 1963, Act 227, Eff. Sept. 6, 1963

691.973 Judges; unavailability; special emergency judges, designations, duration of service.

Sec. 3.

(1) If any judge of any court is unavailable to exercise the powers and discharge the duties of his office, and if no other judge authorized to act in the event of absence, disability or vacancy or no special judge appointed in accordance with law is available to exercise the powers and discharge the duties of the office, the duties of the office shall be discharged and the powers exercised by the special emergency judges hereinafter provided for:

(a) The governor, upon approval of this act, shall designate not less than 3 special emergency judges for each member of each court of record and specify the order of their succession. These courts shall include the supreme court, circuit courts, probate courts, common pleas court of Detroit, recorder's court of Detroit, superior court of Grand Rapids and any state or other municipal court of record.

(b) Upon the approval of this act, the duly appointed or elected authority of a political subdivision which has the authority to appoint successors to justices of courts not of record, shall designate for each member of each such court not of record, special emergency justices of not less than 3 for each member of each court and specify their order of succession.

(2) Special emergency judges, in the order specified, shall exercise the powers and discharge the duties of such office in case of the unavailability of the regular judges or persons immediately preceding them in the designation. The designating authority shall review and revise, as necessary, designations made pursuant to this act to insure their current status.

(3) Special emergency judges shall discharge the duties and exercise the powers of such office until such time as a vacancy is filled in accordance with the constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

History: 1963, Act 227, Eff. Sept. 6, 1963

691.974 Special emergency judges; oath.

Sec. 4.

At the time of their designation special emergency judges shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

History: 1963, Act 227, Eff. Sept. 6, 1963

691.975 Special emergency judges; powers and duties; termination of authority by legislature.

Sec. 5.

Those authorized to act as special emergency judges may exercise the powers and discharge the duties of office only after an attack upon the United States has occurred. The legislature by concurrent resolution at any time may terminate the authority of the special emergency judges to exercise the powers and discharge the duties of office.

History: 1963, Act 227, Eff. Sept. 6, 1963

691.976 Special emergency judges; removal or replacement.

Sec. 6.

Until such time as the persons designated as special emergency judges are authorized to exercise the powers and discharge the duties of an office in accordance with this act, the persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by the designating authority at any time, with or without cause.

History: 1963, Act 227, Eff. Sept. 6, 1963

691.977 Questions of fact; adjudication.

Sec. 7.

Any dispute concerning a question of fact arising under this act shall be adjudicated by the governor, or other official authorized under the constitution and this act to exercise the powers and discharge the duties of the office of governor, and his decision shall be final.

History: 1963, Act 227, Eff. Sept. 6, 1963

VOID CONSTRUCTION CONTRACTS

Act 165 of 1966

AN ACT to invalidate certain requirements for indemnity in the construction industry.

History: 1966, Act 165, Eff. Mar. 10, 1967

The People of the State of Michigan enact:

691.991 Building construction or design; certain provisions for indemnification void; contractor defined; "public entity" defined; application of MCL 691.1401 to 691.1419.

Sec. 1.

(1) In a contract for the design, construction, alteration, repair, or maintenance of a building, a structure, an appurtenance, an appliance, a highway, road, bridge, water line, sewer line, or other infrastructure, or any other improvement to real property, including moving, demolition, and excavating connected therewith, a provision purporting to indemnify the promisee against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the promisee or indemnitee, his agents or employees, is against public policy and is void and unenforceable.

(2) When entering into a contract with a Michigan-licensed architect, professional engineer, landscape architect, or professional surveyor for the design of a building, a structure, an appurtenance, an appliance, a highway, road, bridge, water line, sewer line, or other infrastructure, or any other improvement to real property, or a contract with a contractor for the construction, alteration, repair, or maintenance of any such improvement, including moving, demolition, and excavating connected therewith, a public entity shall not require the Michigan-licensed architect, professional engineer, landscape architect, or professional surveyor or the contractor to defend the public entity or any other party from claims, or to assume any liability or indemnify the public entity or any other party for any amount greater than the degree of fault of the Michigan-licensed architect, professional engineer, landscape

architect, or professional surveyor, or the contractor and that of his or her respective subconsultants or subcontractors. A contract provision executed in violation of this section is against public policy and is void and unenforceable.

(3) For the purposes of this section, a contractor may be an individual, sole proprietorship, partnership, corporation, limited liability company, joint venture, construction manager, or other business arrangement.

(4) As used in this section, "public entity" means this state and all agencies thereof, any public body corporate within this state and all agencies thereof, and any nonincorporated public body within this state of whatever nature and all agencies thereof; including, but not limited to, cities, villages, townships, counties, school districts, intermediate school districts, authorities, and community and junior colleges as provided for in section 7 of article VIII of the state constitution of 1963, and their employees and agents, including, but not limited to, construction managers or other business arrangements retained by or contracting with the public entity to manage or administer the contract for the public entity. However, public entity does not include institutions of higher education as described or provided for in section 4 or 6 of article VIII of the state constitution of 1963, or their employees or agents.

(5) Nothing in this act affects the application of 1964 PA 170, MCL 691.1401 to 691.1419.

History: 1966, Act 165, Eff. Mar. 10, 1967 ;-- Am. 2012, Act 468, Eff. Mar. 1, 2013

BOARD OF JURY COMMISSIONERS

Act 104 of 1962

691.1001-691.1023 Repealed. 1968, Act 326, Eff. Nov. 15, 1968.

ACTIONS INVOLVING ELECTIONS

Act 161 of 1969

AN ACT to regulate the filing of certain actions involving elections.

History: 1969, Act 161, Eff. Mar. 20, 1970

The People of the State of Michigan enact:

691.1031 Actions involving elections; filing, laches.

Sec. 1.

In a civil action brought in any court of this state affecting elections, dates of elections, candidates, qualifications of candidates, ballots or questions on ballots, or polling places, drop box locations, or early voting locations that are established by the applicable deadline, there is a rebuttable presumption of laches if the action is commenced less than 45 days before the date of the election affected. This section does not apply to an action brought after the date of the affected election.

History: 1969, Act 161, Eff. Mar. 20, 1970 ;-- Am. 2024, Act 222, Eff. Apr. 2, 2025

691.1032 Repealed. 2024, Act 222, Eff. Apr. 2, 2025.

Compiler's Notes: The repealed section pertained to an exception for actions involving elections by the state legislature or the legislative body of any county, city, village, or township.

PUBLICATION OF NOTICES IN NEWSPAPERS

Act 247 of 1963

AN ACT to define the term â€œnewspaperâ€ as used in the statutes of this state regarding publication of notices.

History: 1963, Act 247, Eff. Sept. 6, 1963

The People of the State of Michigan enact:

691.1051 Newspaper; definition; publication of notices; duties of newspaper operator.

Sec. 1.

(1) As used in any statute of this state in relation to the publication of a notice of any kind, unless the statute expressly provides otherwise, "newspaper" means a print publication published in the English language for the dissemination of local news of a general character or for the dissemination of legal news to which all of the following apply:

(a) There is a bona fide list of paying subscribers to the publication or the publication has been published at not less than weekly intervals in the same community without interruption for at least 2 years.

(b) The publication has been published and of general circulation at not less than weekly intervals without interruption for at least 1 year in the required area. A newspaper shall not lose eligibility for interruption of continuous publication due to any of the following:

(i) An act of God.

(ii) Labor disputes.

(iii) The COVID-19 pandemic, for the period beginning March 10, 2020 through the end of the COVID-19 pandemic.

(iv) Military service of the publisher for a period not to exceed 2 years and provided publication is resumed within 6 months following the termination of such military service.

(c) The publication annually averages at least 25% news and editorial content per issue.

(2) A person that operates a newspaper in which a notice is published under this section shall do both of the following, at no additional cost beyond what the person charges for the print publication:

(a) Within 72 hours of receipt of a request to publish a notice, provide access to the notice on the website of the newspaper. The website must satisfy all of the following requirements:

(i) The website homepage must have a link that takes a viewer to an area of the website where notices published under this section are available for viewing. This area of the website cannot be placed behind any sort of pay wall and the public must be able to read the notices at no charge.

(ii) Notices published under this section must remain on the website during the full required publication period.

(iii) Notices published under this section must remain searchable on the website as a permanent record of the publication.

(b) Place the notice on a website that is established and maintained by a state association of newspapers that represents a majority of newspapers in this state as a comprehensive central repository for notices published under this section throughout this state. The website must do all of the following:

(i) Provide for searching for a notice published under this section by criteria contained in the notice.

(ii) Maintain all notices published under this section on a permanent basis.

(iii) Provide access through standard computer browsers and mobile platforms, such as smartphones and tablets.

(iv) Provide a method to alert the public of notices published under this section by text message or email

notification, or both.

(3) An error or omission in the posting of a notice on the internet under subsection (2) does not invalidate the notice published in the print version of the newspaper.

(4) If there is no publication that meets the definition in subsection (1) in the required area, "newspaper" means a publication in an adjoining county, township, city, village, district, or other geographic territory, as applicable, that meets the definition in subsection (1).

(5) A person that operates a newspaper that publishes a notice shall maintain a permanent and complete printed copy of each published edition that contains the notice for archival and verification purposes in the required area.

(6) A publication that meets the definition under subsection (1) but that is controlled by the person on whose behalf the notice is published or by an officer, employee, agent, or affiliate of the person is not qualified to serve as a newspaper for publication of the notice.

(7) As used in this section:

(a) "Controlled" means that the person has 1 or more of the following:

(i) Ownership of or the power to vote, directly or indirectly, more than 50% of a class of voting securities or voting interests of the person that operates the publication.

(ii) Power by the person's own action to elect or appoint a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of the person that operates the publication.

(iii) The legal right by the person's own action to direct, restrict, regulate, govern, or administer the management or policies of the person that operates the publication.

(b) "End of the COVID-19 pandemic" means the earliest date after March 10, 2020 on which none of the following are in effect:

(i) A presidential declaration of national emergency under the national emergencies act, 50 USC 1601 to 1651, relating to COVID-19.

(ii) An executive order issued by the governor during a state of disaster or emergency declared under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421, or 1945 PA 302, MCL 10.31 to 10.33, relating to COVID-19.

(iii) An emergency order issued under section 2253 of the public health code, 1978 PA 368, MCL 333.2253, relating to COVID-19.

(c) "Internet" means that term as defined in 47 USC 230.

(d) "News and editorial content" means any content other than paid advertising.

(e) "Notice" includes an order, ordinance, advertisement, report, and any other statement or information required by statute to be published.

(f) "Required area" means the county, township, city, village, district, or other geographic territory where the statute requires the notice to be published or the newspaper to be published, circulated, or printed.

(g) "Website" means a collection of pages of the internet, usually in html format, with clickable or hypertext links to enable navigation from 1 page or section to another, that often uses associated graphics files to provide illustration and may contain other clickable or hypertext links.

History: 1963, Act 247, Eff. Sept. 6, 1963 ;-- Am. 2022, Act 76, Imd. Eff. May 12, 2022

Compiler's Notes: Enacting section 2 of Act 76 of 2022 provides:"Enacting section 2. Section 1(1)(b)(iii) of 1963 PA 247, MCL 691.1051, as amended by this amendatory act, is intended to be retroactive and applies retroactively beginning March 10, 2020."

SUPREME COURT JUSTICES

Act 52 of 1963 (2nd Ex. Sess.)

AN ACT to provide for the extension of the terms of the incumbent supreme court justices; to provide for retirement benefits; to provide for the election of such justices and to fix the number of justices of the supreme court.

History: 1963, 2nd Ex. Sess., Act 52, Imd. Eff. Dec. 27, 1963

The People of the State of Michigan enact:

691.1061 Supreme court justices; extension of term of office.

Sec. 1.

The terms of office of the justices of the supreme court who are holding office on January 1, 1964 and whose terms would otherwise expire December 31, 1965, 1967, 1969 and 1971, are extended 1 year.

History: 1963, 2nd Ex. Sess., Act 52, Imd. Eff. Dec. 27, 1963 ;-- Am. 1964, Act 145, Eff. Aug. 28, 1964

691.1062 Retirement act.

Sec. 2.

For the purpose of the retirement act, this additional period of service shall be considered a part of the term of office for which each of the respective justices was elected as provided in section 12 of Act No. 198 of the Public Acts of 1951, being section 38.812 of the Compiled Laws of 1948.

History: 1963, 2nd Ex. Sess., Act 52, Imd. Eff. Dec. 27, 1963

691.1063, 691.1064 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

Compiler's Notes: The repealed sections pertained to the first general election for justices of supreme court and to vacancy caused by death, retirement, or resignation.

REPRODUCTION OF PUBLIC RECORDS

Act 105 of 1964

AN ACT to provide for reproduction of records of this state, political subdivisions of this state, and municipal courts of record; and to provide for the use of those reproductions as evidence.

History: 1964, Act 105, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 187, Imd. Eff. Oct. 5, 1992

The People of the State of Michigan enact:

691.1101 Destruction or disposal of certain records.

Sec. 1.

If a department, commission, board, or officer of this state, a political subdivision, or a municipal court of record reproduces pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, records kept by or in the department, commission, board, office, or court, the department, commission, board, officer, or court may cause the original records to be disposed of or destroyed pursuant to sections 201, 285, 287, and 289 of the management and budget act, 1984 PA 431, MCL 18.1201, 18.1285, 18.1287, and 18.1289, if applicable, and section 11 of the Michigan history center act, 2016 PA 470, MCL 399.811. A record of a municipal court of record

shall not be disposed of or destroyed unless the record has been in the custody of the court for at least 6 years.

History: 1964, Act 105, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 187, Imd. Eff. Oct. 5, 1992 ;-- Am. 2017, Act 180, Eff. Feb. 19, 2018
Admin Rule: R 18.101 et seq. of the Michigan Administrative Code.

691.1102 Register of deeds; reproductions; duplication; storage; display.

Sec. 2.

The register of deeds of a county, if so instructed by a resolution of the county board of commissioners, may reproduce pursuant to the records media act a deed, mortgage, map, instrument, or writing recorded in his or her office and a record or index required by law to be kept by him or her. The register of deeds shall make reproductions in duplicate and store 1 reproduction in a building separate from his or her office. The register of deeds shall retain the other reproduction in his or her office with suitable equipment for displaying the record at not less than its original size or for preparing copies for persons entitled to copies.

History: 1964, Act 105, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 187, Imd. Eff. Oct. 5, 1992

691.1103 Reproductions; admissibility in evidence.

Sec. 3.

A reproduction of a record in a medium pursuant to the records media act or a reproduction consisting of a printout or other output readable by sight from such a medium prepared under any other law has the same force and effect as the original and shall be treated as an original for the purpose of admissibility in evidence. A duly certified or authenticated copy of the reproduction shall be admitted in evidence equally with the original reproduction.

History: 1964, Act 105, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 187, Imd. Eff. Oct. 5, 1992

REPRODUCTION OF PUBLIC RECORDS

Act 106 of 1964

AN ACT to authorize the recording, copying, and recopying of documents, plats, papers, written instruments, records, and books on file or of record and the replacement and certification of originals previously filed and of record, by county and city officers; to provide for the effect and use of the copies, records, reproductions, or replacements and of transcripts or certified copies thereof; and to provide for revision of and entries to be made on originals so produced or replaced.

History: 1964, Act 106, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 213, Imd. Eff. Oct. 5, 1992

The People of the State of Michigan enact:

691.1111 Recording, copying, recopying, or replacing filed or recorded documents.

Sec. 1.

If an officer of a county or city is required or authorized by law to record, copy, recopy, or replace a document, plat, paper, written instrument, or book on file or of record in his or her office, the officer may do so pursuant to the records media act.

History: 1964, Act 106, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 213, Imd. Eff. Oct. 5, 1992

691.1112 Public records; copy or replacement; certification.

Sec. 2.

If an original document, plat, paper, written instrument, record, or book of record filed or of record in the office of an officer described in section 1 is copied or replaced, and the officer is required by law to certify in or on the copy or replacement that it is a true and correct copy of the original, a copy of the certification by the officer, similarly made and included at the end of the copy or replacement, complies with the law.

History: 1964, Act 106, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 213, Imd. Eff. Oct. 5, 1992

691.1113 Public records; correction, alteration and indorsement; procedure.

Sec. 3.

When any record or replacement thereof in the office of any such officer is produced by such process, a correction, alteration, indorsement or entry, required or authorized to be made of or on any instrument or paper or on the record thereof, may be made by filing or inserting copies or recopies produced by the same process of the page or part of the page, so corrected, altered, or on which such indorsement or entry is made, next to the place wherein the copy or record of such instrument or paper is contained or in such other manner as such officer shall deem advisable or practicable. The uncorrected or unaltered record or copy shall also be preserved in its original condition and location and not destroyed or obliterated. The re-recording, re-filing or new instrument shall contain a statement that it is given to correct, and shall state where the original record or file may be found.

History: 1964, Act 106, Eff. Aug. 28, 1964

691.1114 Transcripts.

Sec. 4.

Transcripts or certified copies of such copies, records, reproductions and replacements, shall be considered as transcripts or certified copies of the originals.

History: 1964, Act 106, Eff. Aug. 28, 1964

691.1115 Reproduction; admissibility in evidence.

Sec. 5.

A reproduction in a medium pursuant to the records media act or a reproduction consisting of a printout or

other output readable by sight from such a medium, which reproduction is produced under this or any other law, shall be considered an original for all purposes and is admissible in evidence in like manner as the original.

History: 1964, Act 106, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 213, Imd. Eff. Oct. 5, 1992

UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT

Act 20 of 2008

AN ACT to revise the standards under which courts of this state recognize foreign money judgments; to establish procedures for the recognition of foreign money judgments; to limit the time within which an action to enforce a foreign money judgment may be commenced; to make uniform the law relating to the enforcement of foreign money judgments; and to repeal acts and parts of acts.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

The People of the State of Michigan enact:

691.1131 Short title.

Sec. 1.

This act shall be known and may be cited as the "uniform foreign-country money judgments recognition act".

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1132 Definitions.

Sec. 2.

As used in this act:

(a) "Foreign country" means a government other than any of the following:

(i) The United States.

(ii) A state, district, commonwealth, territory, or insular possession of the United States.

(iii) A federally recognized Indian tribe whose tribal court judgments are entitled to recognition and presumed to be valid under a court rule adopted by the supreme court.

(iv) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of the United States constitution.

(b) "Foreign-country judgment" means the judgment of a court of a foreign country.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1133 Applicability of act; scope.

Sec. 3.

(1) Except as otherwise provided in subsection (2), this act applies to a foreign-country judgment to the extent that both of the following apply:

(a) The judgment grants or denies recovery of a sum of money.

(b) Under the law of the foreign country where rendered, the judgment is final, conclusive, and enforceable.

(2) This act does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is any of the following:

(a) A judgment for taxes.

(b) A fine or other penalty.

(c) A judgment for divorce, support, or maintenance or other judgment rendered in connection with domestic relations.

(3) A party seeking recognition of a foreign-country judgment has the burden of establishing that this act applies to the foreign-country judgment.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1134 Foreign-country judgment; recognition by court; burden for establishing ground for nonrecognition.

Sec. 4.

(1) Except as otherwise provided in subsections (2) and (3), a court of this state shall recognize a foreign-country judgment to which this act applies.

(2) A court of this state shall not recognize a foreign-country judgment if any of the following apply:

(a) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(b) The foreign court did not have personal jurisdiction over the defendant.

(c) The foreign court did not have jurisdiction over the subject matter.

(3) A court of this state need not recognize a foreign-country judgment if any of the following apply:

(a) The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend.

(b) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case.

(c) The judgment or the cause of action on which the judgment is based is repugnant to the public policy of this state or of the United States.

(d) The judgment conflicts with another final and conclusive judgment.

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court.

(f) If jurisdiction was based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

(g) The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment.

(h) The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(4) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (2) or (3) exists.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1135 Lack of personal jurisdiction; refusal of recognition prohibited; conditions; bases.

Sec. 5.

(1) A foreign-country judgment shall not be refused recognition for lack of personal jurisdiction if any of the

following apply:

(a) The defendant was served with process personally in the foreign country.

(b) The defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant.

(c) The defendant, before the commencement of the proceeding, agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved.

(d) The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country.

(e) The defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign country.

(f) The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action arising out of that operation.

(2) The list of bases for personal jurisdiction in subsection (1) is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in subsection (1) as sufficient to support a foreign-country judgment.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1136 Recognition of foreign-country judgment; raising action as original matter; raising action by counterclaim, cross-claim, or affirmative defense.

Sec. 6.

(1) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.

(2) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1137 Foreign-country judgment; findings.

Sec. 7.

If the court in a proceeding under section 6 finds that the foreign-country judgment is entitled to recognition under this act, then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is both of the following:

(a) Conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive.

(b) Enforceable in the same manner and to the same extent as a judgment rendered in this state.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1138 Appeal; stay of proceedings.

Sec. 8.

If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may

stay any proceedings with regard to the foreign-country judgment until the appeal is concluded, the time for appeal expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1139 Recognition of foreign-country judgment; commencement of action.

Sec. 9.

An action to recognize a foreign-country judgment shall be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or 15 years from the date that the foreign-country judgment became effective in the foreign country.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1140 Applicability and construction of act; promotion of uniformity of law.

Sec. 10.

In applying and construing this uniform act, a court shall consider the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1141 Recognition of foreign-country judgment under principles of comity.

Sec. 11.

This act does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment that is not within the scope of this act.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1142 Applicability of act.

Sec. 12.

This act applies to all actions commenced on or after the effective date of this act in which the issue of recognition of a foreign-country judgment is raised.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

691.1143 Repeal of MCL 691.1151 to 691.1159.

Sec. 13.

The uniform foreign money-judgments recognition act, 1967 PA 191, MCL 691.1151 to 691.1159, is repealed.

History: 2008, Act 20, Imd. Eff. Mar. 7, 2008

UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT

Act 191 of 1967

691.1151-691.1159 Repealed. 2008, Act 20, Imd. Eff. Mar. 7, 2008.

UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT

Act 502 of 1996

AN ACT to provide for the enforcement of foreign judgments.

History: 1996, Act 502, Eff. June 1, 1997

The People of the State of Michigan enact:

691.1171 Short title.

Sec. 1.

This act shall be known and may be cited as the "uniform enforcement of foreign judgments act".

History: 1996, Act 502, Eff. June 1, 1997

691.1172 â€œForeign judgmentâ€ defined.

Sec. 2.

As used in this act, "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court that is entitled to full faith and credit in this state.

History: 1996, Act 502, Eff. June 1, 1997

691.1173 Foreign judgment; filing; effect.

Sec. 3.

A copy of a foreign judgment authenticated in accordance with an act of congress or the laws of this state may be filed in the office of the clerk of the circuit court, the district court, or a municipal court of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the circuit court, the district court, or a municipal court of this state. A judgment filed under this act has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the circuit court, the district court, or a municipal court of this state and may be enforced or satisfied in like manner.

History: 1996, Act 502, Eff. June 1, 1997

691.1174 Foreign judgment; filing; affidavit; fee; notice of filing; enforcement.

Sec. 4.

(1) At the time of the filing of the foreign judgment, the judgment creditor or his or her attorney shall make and file with the clerk of the court an affidavit setting forth the name and last known address of the judgment debtor and the judgment creditor.

(2) At the time of the filing of the foreign judgment, the judgment creditor shall pay a filing fee as follows:

(a) In the circuit court, a sum equal to the amount required to file a civil action under section 2529 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2529 of the Michigan Compiled Laws.

(b) In the district court, a sum equal to the amount required to file a civil action under section 8371 of Act No. 236 of the Public Acts of 1961, being section 600.8371 of the Michigan Compiled Laws. For the purposes of determining the amount of the filing fee, the amount in controversy shall equal the amount of the foreign judgment.

(c) In a municipal court, a sum equal to the amount required to file a civil action under section 28 of the Michigan uniform municipal court act, Act No. 5 of the Public Acts of 1956, being section 730.528 of the Michigan Compiled Laws. For the purposes of determining the amount of the filing fee, the amount in controversy shall equal the amount of the foreign judgment.

(3) Promptly after the foreign judgment and the affidavit have been filed, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address provided by the judgment creditor or his or her attorney. The notice shall include the name and address of the judgment creditor and the judgment creditor's attorney, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. The clerk's failure to mail a notice of filing shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(4) A foreign judgment filed under this act shall not be enforced until 21 days after the date notice of the filing of the foreign judgment is mailed.

History: 1996, Act 502, Eff. June 1, 1997

691.1175 Foreign judgment; stay of enforcement.

Sec. 5.

(1) If the judgment debtor shows the circuit court, the district court, or a municipal court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(2) If the judgment debtor shows the circuit court, the district court, or a municipal court any ground upon which enforcement of a judgment of the circuit court, the district court, or a municipal court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment that is required in this state.

History: 1996, Act 502, Eff. June 1, 1997

691.1176 Post judgment interest.

Sec. 6.

Post judgment interest will be awarded in accordance with the law of the jurisdiction in which the judgment was awarded.

History: 1996, Act 502, Eff. June 1, 1997

691.1177 Enforcement action by judgment creditor.

Sec. 7.

A judgment creditor may bring an action to enforce his or her judgment instead of proceeding under this act.

History: 1996, Act 502, Eff. June 1, 1997

691.1178 Interpretation and construction of act.

Sec. 8.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

History: 1996, Act 502, Eff. June 1, 1997

691.1179 Effective date.

Sec. 9.

This act shall take effect June 1, 1997.

History: 1996, Act 502, Eff. June 1, 1997

STRUCTURED SETTLEMENT PROTECTION ACT

Act 330 of 2000

691.1191-691.1197 Repealed. 2006, Act 296, Eff. Oct. 1, 2006.

THOMAS J. ANDERSON, GORDON ROCKWELL ENVIRONMENTAL PROTECTION ACT OF 1970

Act 127 of 1970

691.1201-691.1207 Repealed. 1994, Act 451, Eff. Mar. 30, 1995.

REVISED STRUCTURED SETTLEMENT PROTECTION ACT

Act 296 of 2006

AN ACT to regulate the transfer of structured settlement rights; to place conditions on the transfer of structured settlement rights; to establish a procedure for approval of transfer of structured settlement rights; and to repeal acts and parts of acts.

History: 2006, Act 296, Eff. Sept. 1, 2006

The People of the State of Michigan enact:

691.1301 Short title.

Sec. 1.

This act shall be known and may be cited as the "revised structured settlement protection act".

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1302 Definitions.

Sec. 2.

As used in this act:

(a) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(b) "Dependent" means a payee's spouse, minor child, or any other person for whom the payee is legally obligated to provide support, including alimony.

(c) "Discounted present value" means the present value of future payments determined by discounting the payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the internal revenue service.

(d) "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before reduction in that sum for transfer expenses or other deductions.

(e) "Imminent financial hardship" means the inability of the payee, because of a change in the payee's circumstances after the execution of the initial structured settlement agreement, to purchase or pay for 1 or more of the following without the transfer:

(i) Medical care or a medical device for the payee or the payee's dependents.

(ii) Living quarters for the payee.

(iii) A motor vehicle necessary for the payee's transportation if the payee has no other suitable transportation options.

(iv) Education or job training expenses.

(v) Debts of the payee resulting from child support, alimony, a tax lien, funeral expenses, or a judgment.

(f) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser.

(g) "Interested party" means, with respect to a structured settlement, the payee, a beneficiary irrevocably designated under an annuity contract to receive payments following the payee's death, an annuity issuer, a structured settlement obligor, or any other person that has continuing rights or obligations under the structured settlement.

(h) "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under section 3(e).

(i) "Payee" means an individual who receives tax free payments under a structured settlement and who proposes to make a transfer of payment rights under the structured settlement.

(j) "Periodic payments" means both recurring payments and scheduled future lump sum payments.

(k) "Qualified assignment agreement" means an agreement providing for a qualified assignment as defined in section 130 of the internal revenue code, 26 USC 130.

(l) "Settled claim" means the original tort claim resolved by a structured settlement.

(m) "Structured settlement" means an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment to resolve a tort claim. Structured settlement does not include an arrangement for periodic payments to settle a worker's compensation claim.

(n) "Structured settlement agreement" means an agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

(o) "Structured settlement obligor" means, with respect to a structured settlement, a person that has a continuing obligation to make periodic payments to a payee under the structured settlement agreement or a qualified assignment agreement.

(p) "Structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, if 1 or more of the following conditions exist:

(i) The payee is domiciled in, or the domicile or principal place of business of the structured settlement obligor or the annuity issuer is located in, this state.

(ii) The structured settlement agreement was approved by a court in this state.

(iii) The structured settlement agreement is expressly governed by the laws of this state.

(q) "Terms of the structured settlement" means, with respect to a structured settlement, the terms of the structured settlement agreement, an annuity contract, a qualified assignment agreement, or an order or other approval of a court that authorized or approved the structured settlement.

(r) "Transfer" means a sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights a payee makes for consideration; except that "transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, unless action has been taken to redirect the structured settlement payments to the insured depository institution or to an agent or successor in interest of the depository institution, or action has been taken to otherwise enforce the blanket security interest against the structured settlement payment rights.

(s) "Transfer agreement" means an agreement providing for a transfer of structured settlement payment rights.

(t) "Transfer expenses" means all expenses of a transfer that the transfer agreement requires the payee to pay or have deducted from the gross advance amount, including, but not limited to, court filing fees, attorney fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary. Transfer expenses do not include preexisting obligations of the payee that are payable for the payee's account from the proceeds of a transfer.

(u) "Transferee" means a person acquiring or proposing to acquire structured settlement payment rights through a transfer.

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1303 Separate disclosure statement to be provided by transferee; type; contents.

Sec. 3.

Not less than 3 days before the date on which a payee signs a transfer agreement, the transferee shall provide to

the payee a separate disclosure statement in bold type no smaller than 14 points setting forth all of the following:

(a) The amounts and due dates of the structured settlement payments to be transferred.

(b) The aggregate amount of the payments.

(c) The discounted present value of the payments to be transferred, which shall be identified as the calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities, and the amount of the applicable federal rate used in calculating the discounted present value.

(d) The gross advance amount.

(e) An itemized listing of all applicable transfer expenses, other than attorney fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of the fees and disbursements.

(f) The net advance amount.

(g) The amount of penalties or liquidated damages payable by the payee if the payee breaches the transfer agreement.

(h) A statement that the payee has the right to cancel the transfer agreement without penalty or further obligation not later than the third business day after the date that the payee signs the agreement.

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1304 Transfer of structured settlement payment rights; final court order; approval; basis; findings.

Sec. 4.

A direct or indirect transfer of structured settlement payment rights is not effective and a structured settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer has been approved in a final court order and the order is based on express findings of all of the following:

(a) The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents.

(b) The transferee has advised the payee, in writing, to seek independent professional advice regarding the transfer, and the payee has either received independent professional advice or knowingly waived in writing the opportunity to seek advice.

(c) The transfer does not contravene an applicable statute or order of the court or other government authority.

(d) The discount rate or rates used in determining the discounted present value of the structured settlement payments to be transferred do not exceed 25% per year.

(e) If the transfer is inconsistent with a restriction against assignment in the structured settlement agreement and if the structured settlement obligor objects to the transfer based on the restriction against assignment before the hearing on the application for approval of the transfer, all of the following:

(i) The payee will suffer imminent financial hardship if the transfer is not approved.

(ii) The transfer will not render the payee unable to pay current or future normal living expenses.

(iii) The transfer order will restrict payment of the gross advance amount to direct payment to the provider of the goods or services that are the subject of the imminent financial hardship. If the total cost of the goods or services cannot be readily determined at the time of or within a reasonable time after the transfer, the court may exercise reasonable discretion in ordering such direct payments.

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1305 Transfer of structured settlement payment rights; effects.

Sec. 5.

A transfer of structured settlement payment rights under this act has all of the following effects:

(a) The structured settlement obligor and the annuity issuer are discharged and released from all liability for the transferred payments as to any person except the transferee.

(b) The transferee is liable to the structured settlement obligor and the annuity issuer for both of the following:

(i) If the transfer contravenes the terms of the structured settlement, the taxes incurred by the structured settlement obligor and the annuity issuer as a consequence of the transfer.

(ii) Other liabilities or costs, including reasonable costs and attorney fees, arising from the structured settlement obligor's and the annuity issuer's compliance with the order of the court or from the transferee's failure to comply with this act.

(c) An annuity issuer or a structured settlement obligor is not required to divide a periodic payment between the payee and a transferee or assignee or between 2 or more transferees or assignees.

(d) A payee may make a further transfer of structured settlement payment rights only after complying with all of the requirements of this act.

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1306 Transfer of structured settlement payment rights; application for approval; court jurisdiction; notice of proposed transfer.

Sec. 6.

(1) The transferee may apply for approval of a transfer of structured settlement payment rights with the court in the county in which the payee resides, in the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business, or with the court that approved the structured settlement agreement.

(2) Not less than 20 days before the scheduled hearing on an application for approval of a transfer of structured settlement payment rights under section 4, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, and shall include with the notice all of the following:

(a) A copy of the transferee's application.

(b) A copy of the transfer agreement.

(c) A copy of the disclosure statement required under section 3.

(d) A listing of each of the payee's dependents and each dependent's age.

(e) Notice that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing.

(f) Notice of the time and place of the hearing and of the manner in which and the time by which written responses to the application must be filed to be considered by the court. The time for filing written responses shall be not less than 15 days after service of the transferee's notice.

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1307 Waiver prohibited; scope and effect of act; failure to comply with act.

Sec. 7.

(1) A payee shall not waive a provision of this act.

(2) A transfer agreement entered into on or after the effective date of this act by a payee who resides in this state shall provide that disputes under the transfer agreement, including a claim that the payee has breached the agreement, shall be determined in and under the laws of this state. A transfer agreement shall not authorize the transferee or any other person to confess judgment or consent to entry of judgment against the payee.

(3) A transfer of structured settlement payment rights that are life-contingent is not effective unless, before the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for both of the following:

(a) Periodically confirming the payee's survival.

(b) Giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the

payee's death.

(4) A payee who proposes to make a transfer of structured settlement payment rights shall not incur a penalty, forfeit an application fee or other payment, or otherwise incur liability to the proposed transferee or assignee based on the failure of the transfer to satisfy the conditions of this act.

(5) This act does not authorize a transfer of structured settlement payment rights in contravention of law or validate or invalidate a transfer under a transfer agreement entered into before the effective date of this act.

(6) The transferee has sole responsibility for complying with the requirements in section 3 and fulfilling the conditions in section 4 in a transfer of structured settlement payment rights. A structured settlement obligor or annuity issuer shall not bear any responsibility or liability arising from a transferee's failure to comply with those requirements or to fulfill those conditions.

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1308 Applicability of act.

Sec. 8.

This act applies to a transfer of structured settlement payment rights under any transfer agreement entered into on or after the thirtieth day after the effective date of this act.

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1309 Repeal of MCL 691.1191 to 691.1197.

Sec. 9.

The structured settlement protection act, 2000 PA 330, MCL 691.1191 to 691.1197, is repealed effective 30 days after the effective date of this act.

History: 2006, Act 296, Eff. Sept. 1, 2006

691.1310 Effective date.

Sec. 10.

This act takes effect September 1, 2006.

History: 2006, Act 296, Eff. Sept. 1, 2006

UNIFORM COLLABORATIVE LAW ACT

Act 159 of 2014

AN ACT to adopt the uniform collaborative law act; to allow parties to agree to a collaborative alternative dispute resolution process as an alternative to litigation; and to provide remedies.

History: 2014, Act 159, Eff. Dec. 8, 2014

The People of the State of Michigan enact:

691.1331 Short title.

Sec. 1.

This act shall be known and may be cited as the "uniform collaborative law act".

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1332 Definitions.

Sec 2.

As used in this act:

(a) "Collaborative law communication" means a statement, whether oral or in a record, or verbal or nonverbal, to which both of the following apply:

(i) The statement is made to conduct, participate in, continue, or reconvene a collaborative law process.

(ii) The statement occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

(b) "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

(c) "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons sign a collaborative law participation agreement and are represented by collaborative lawyers.

(d) "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

(e) "Collaborative matter" means a dispute, transaction, claim, problem, or issue for resolution, including a dispute, claim, or issue in a proceeding, that is described in a collaborative law participation agreement and arises under the family or domestic relations law of this state, including any of the following:

(i) Marriage, divorce, dissolution, annulment, and property distribution.

(ii) Child custody, visitation, and parenting time.

(iii) Alimony, maintenance, and child support.

(iv) Adoption.

(v) Parentage.

(vi) Premarital, marital, and postmarital agreements.

(f) "Law firm" means both of the following:

(i) Lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association.

(ii) Lawyers employed in a legal services organization, or the legal department of a corporation or other organization, or the legal department of a government or governmental subdivision, agency, or instrumentality.

(g) "Nonparty participant" means a person, other than a party and the party's collaborative lawyer, that participates in a collaborative law process.

(h) "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(i) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(j) "Proceeding" means any of the following:

(i) A judicial, administrative, arbitral, or other adjudicative process before a tribunal, including related prehearing and posthearing motions, conferences, and discovery.

(ii) A legislative hearing or similar process.

(k) "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of

signing a collaborative law participation agreement.

(l) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(m) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(n) "Sign" means, with present intent to authenticate or adopt a record, either of the following:

(i) To execute or adopt a tangible symbol.

(ii) To attach to or logically associate with the record an electronic symbol, sound, or process.

(o) "Tribunal" means any of the following:

(i) A court, arbitrator, administrative agency, or other body acting in an adjudicative capacity that, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter.

(ii) A legislative body conducting a hearing or similar process.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1333 Applicability of act.

Sec. 3.

This act applies to a collaborative law participation agreement that meets the requirements of section 4 signed on or after the effective date of this act.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1334 Collaborative law participation agreement; requirements.

Sec. 4.

(1) A collaborative law participation agreement must satisfy all of the following requirements:

(a) Be in a record.

(b) Be signed by the parties.

(c) State the parties' intention to resolve a collaborative matter through a collaborative law process under this act.

(d) Describe the nature and scope of the matter.

(e) Identify the collaborative lawyer who represents each party in the process.

(f) Contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.

(2) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this act.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1335 Beginning and concluding collaborative law process.

Sec. 5.

(1) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(2) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(3) A collaborative law process is concluded by 1 of the following:

(a) Resolution of a collaborative matter as evidenced by a signed record.

(b) Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process.

(c) Termination of the process.

(4) A collaborative law process terminates when any of the following occur:

(a) A party gives notice to other parties in a record that the process is ended.

(b) A party does any of the following:

(i) Begins a proceeding related to a collaborative matter without the agreement of all parties.

(ii) In a pending proceeding related to the matter, does any of the following:

(A) Initiates a pleading, motion, order to show cause, or request for a conference with the tribunal.

(B) Requests that the proceeding be put on the tribunal's active calendar.

(C) Takes similar action requiring notice to be sent to the parties.

(c) Except as otherwise provided by subsection (7), a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

(5) A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(6) A party may terminate a collaborative law process with or without cause.

(7) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues if, not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection (5) is sent to the parties, both of the following occur:

(a) The unrepresented party engages a successor collaborative lawyer.

(b) A record is signed that satisfies all of the following requirements:

(i) The parties consent in the record to continue the process by reaffirming the collaborative law participation agreement.

(ii) The agreement is amended in the record to identify the successor collaborative lawyer.

(iii) The successor collaborative lawyer confirms in the record the lawyer's representation of a party in the collaborative process.

(8) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part of the matter as evidenced by a signed record.

(9) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1336 Proceeding pending before tribunal; status report.

Sec. 6.

(1) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties shall file promptly with the tribunal a notice of the agreement after it is signed. Subject to subsection (3) and sections 7 and 8, the filing operates as an application for a stay of the proceeding.

(2) The parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes. The stay of the proceeding under subsection (1) is lifted when the notice is filed. The notice may not specify any reason for termination of the process.

(3) A tribunal in which a proceeding is stayed under subsection (1) may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It may not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative law matter.

(4) A tribunal may not consider a communication made in violation of subsection (3).

(5) A tribunal shall provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative process is filed based on delay or failure to prosecute.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1337 Emergency orders.

Sec. 7.

During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a party as provided in section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1338 Approval of agreement by tribunal.

Sec. 8.

A tribunal may approve an agreement resulting from a collaborative law process.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1339 Disqualification of collaborative lawyer in associated law firm.

Sec. 9.

(1) Except as otherwise provided in subsection (3), a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

(2) Except as otherwise provided in subsection (3) and sections 10 and 11, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subsection (1).

(3) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party to do either of the following:

(a) Ask a tribunal to approve an agreement resulting from the collaborative law process.

(b) Seek or defend an emergency order to protect the health, safety, welfare, or interest of a party if a successor lawyer is not immediately available to represent that person.

(4) If subsection (3)(b) applies, a collaborative lawyer, or lawyer in a law firm with which the collaborative lawyer is associated, may represent a party only until the person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1340 Representation of party with or without fee.

Sec. 10.

(1) The disqualification of section 9(1) applies to a collaborative lawyer representing a party with or without fee.

(2) After a collaborative law process concludes, another lawyer in a law firm with which a collaborative lawyer disqualified under section 9(1) is associated may represent a party without fee in the collaborative matter or a

matter related to the collaborative matter if all of the following apply:

(a) The party has an annual income that qualifies the party for free legal representation under the criteria established by the law firm for free legal representation.

(b) The collaborative law participation agreement so provides.

(c) The collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm that are reasonably calculated to isolate the collaborative lawyer from the participation.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1341 Governmental entity as party.

Sec. 11.

(1) The disqualification of section 9(1) applies to a collaborative lawyer representing a party that is a government or governmental subdivision, agency, or instrumentality.

(2) After a collaborative law process concludes, another lawyer in a law firm with which the collaborative lawyer is associated may represent a government or governmental subdivision, agency, or instrumentality in the collaborative matter or a matter related to the collaborative matter if both of the following apply:

(a) The collaborative law participation agreement so provides.

(b) The collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm that are reasonably calculated to isolate the collaborative lawyer from the participation.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1342 Disclosure of information.

Sec. 12.

Except as provided by law other than this act, during the collaborative law process, on the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery. A party also shall update promptly previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1343 Standards of professional responsibility and mandatory reporting not affected.

Sec. 13.

This act does not affect either of the following:

(a) The professional responsibility obligations and standards applicable to a lawyer or other licensed professional.

(b) The obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the law of this state.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1344 Prospective collaborative lawyer; duties.

Sec. 14.

Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall do all of the following:

(a) Assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter.

(b) Provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation.

(c) Advise the prospective party of all of the following:

(i) That after signing an agreement if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates.

(ii) That participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause.

(iii) That the collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by section 9(3), 10(2), or 11(2).

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1345 Coercive or violent relationship.

Sec. 15.

(1) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party. A reasonable inquiry includes the use of the domestic violence screening protocol for mediation provided by the state court administrative office.

(2) Throughout a collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

(3) If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue a collaborative law process unless both of the following apply:

(a) The party or the prospective party requests beginning or continuing a process.

(b) The collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during a process.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1346 Confidentiality of collaborative law communication.

Sec. 16.

A collaborative law communication is confidential to the extent agreed by the parties in a signed record or as provided by law of this state other than this act.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1347 Privilege against disclosure for collaborative law communication; admissibility; discovery.

Sec. 17.

(1) Subject to sections 18 and 19, a collaborative law communication is privileged under subsection (2), is not subject to discovery, and is not admissible in evidence.

(2) In a proceeding, the following privileges apply:

(a) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

(b) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication of the nonparty participant.

(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1348 Waiver and preclusion of privilege.

Sec. 18.

(1) A privilege under section 17 may be waived in a record or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

(2) A person that makes a disclosure or representation about a collaborative law communication that prejudices another person in a proceeding may not assert a privilege under section 17, but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1349 Limits of privilege.

Sec. 19.

(1) There is no privilege under section 17 for a collaborative law communication that is any of the following:

(a) Available to the public under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, or made during a session of a collaborative law process that is open, or is required by law to be open, to the public.

(b) A threat or statement of a plan to inflict bodily injury or commit a crime of violence.

(c) Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity.

(d) In an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(2) The privileges under section 17 for a collaborative law communication do not apply to the extent that a communication is either of the following:

(a) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process.

(b) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult, unless the department of human services is a party to or otherwise participates in the process.

(3) There is no privilege under section 17 if a tribunal finds, after a hearing in camera, that the party seeking

discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in any of the following:

(a) A court proceeding involving a felony or misdemeanor.

(b) A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

(4) If a collaborative law communication is subject to an exception under subsection (2) or (3), only the part of the communication necessary for the application of the exception may be disclosed or admitted.

(5) Disclosure or admission of evidence excepted from the privilege under subsection (2) or (3) does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(6) The privileges under section 17 do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1350 Authority of tribunal in case of noncompliance.

Sec. 20.

(1) If an agreement fails to meet the requirements of section 4, or a lawyer fails to comply with section 14 or 15, a tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if both of the following apply:

(a) The parties signed a record indicating an intention to enter into a collaborative law participation agreement.

(b) The parties reasonably believed they were participating in a collaborative law process.

(2) If a tribunal makes the findings specified in subsection (1), and the interests of justice require, the tribunal may do all of the following:

(a) Enforce an agreement evidenced by a record resulting from the process in which the parties participated.

(b) Apply the disqualification provisions of sections 5, 6, 9, 10, and 11.

(c) Apply a privilege under section 17.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1351 Application and construction of act.

Sec. 21.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1352 Federal electronic signatures.

Sec. 22.

This act modifies, limits, and supersedes the federal electronic signatures in global and national commerce act, 15 USC 7001 to 7031, but does not modify, limit, or supersede section 101(c) of that act, 15 USC 7001(c), or

authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 USC 7003(b).

History: 2014, Act 159, Eff. Dec. 8, 2014

691.1354 Effective date.

Sec. 24.

This act takes effect 180 days after it is enacted into law.

History: 2014, Act 159, Eff. Dec. 8, 2014

GOVERNMENTAL LIABILITY FOR NEGLIGENCE

Act 170 of 1964

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.

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1970, Act 155, Imd. Eff. Aug. 1, 1970 ;-- Am. 1978, Act 141, Imd. Eff. May 11, 1978 ;-- Am. 1986, Act 175, Imd. Eff. July 7, 1986 ;-- Am. 2002, Act 400, Imd. Eff. May 30, 2002
Compiler's Notes: In Hyde v. University of Michigan Regents, 426 Mich 223 (1986), the Supreme Court stated that â€œ1986 PA 175 was enacted, effective July 1, 1986.â€ Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.
Popular Name: Governmental Immunity Act

The People of the State of Michigan enact:

691.1401 Definitions.

Sec. 1.

As used in this act:

(a) "Governmental agency" means this state or a political subdivision.

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

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

(d) "Municipal corporation" means a city, village, or township or a combination of 2 or more of these when acting jointly.

(e) "Political subdivision" means a municipal corporation, county, county road commission, school district, community college district, port district, metropolitan district, or transportation authority or a combination of 2 or more of these when acting jointly; a district or authority authorized by law or formed by 1 or more political subdivisions; or an agency, department, court, board, or council of a political subdivision.

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

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

(h) "Township" means a general law township or a charter township.

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

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1986, Act 175, Imd. Eff. July 7, 1986 ;-- Am. 1999, Act 205, Imd. Eff. Dec. 21, 1999 ;-- Am. 2001, Act 131, Imd. Eff. Oct. 15, 2001 ;-- Am. 2012, Act 50, Imd. Eff. Mar. 13, 2012

Compiler's Notes: Section 3 of Act 175 of 1986 provides:â€œ(1) Sections 1, 7, and 13 of Act No. 170 of the Public Acts of 1964, as amended by this amendatory act, being sections 691.1401, 691.1407, and 691.1413 of the Michigan Compiled Laws, shall not apply to causes of action which arise before July 1, 1986.â€œ(2) Section 6a of Act No. 170 of the Public Acts of 1964, as added by this amendatory act, shall apply to cases filed on or after July 1, 1986.â€In Hyde v. University of Michigan Regents, 426 Mich 223 (1986), the Supreme Court stated that â€œ1986 PA 175 was enacted, effective July 1, 1986.â€ Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.Enacting section 1 of Act 205 of 1999 provides:â€œEnacting section 1. Sections 1 and 2 of 1964 PA 170, MCL 691.1401 and 691.1402, as amended by this amendatory act, and section 2a, as added by this amendatory act, apply only to a cause of action arising on or after the effective date of this amendatory act.â€Enacting section 1 of Act 131 of 2001 provides:â€œEnacting section 1. The provisions of this amendatory act do not limit or reduce the scope of a governmental function as defined by statute or common law.â€

Popular Name: Governmental Immunity Act

691.1402 Repairing and maintaining highways; damages for bodily injury or damage to property; liability, procedure, and remedy as to county roads; judgment against state; payment of judgment; liability of municipal corporation; effect of contractual undertaking to perform work on state trunk line highway; limitations on duties of governmental agency; limitation.

Sec. 2.

(1) Each governmental agency having jurisdiction over a highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel. A person who sustains bodily injury or damage to his or her property by reason of failure of a governmental agency to keep a highway under its jurisdiction in reasonable repair and in a condition reasonably safe and fit for travel may recover the damages suffered by him or her from the governmental agency. The liability, procedure, and remedy as to county roads under the jurisdiction of a county road commission shall be as provided in section 21 of chapter IV of 1909 PA 283, MCL 224.21. Except as provided in section 2a, the duty of a governmental agency to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, trailways, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel. A judgment against the state based on a claim arising under this section from acts or omissions of the state transportation department is payable only from restricted funds appropriated to the state transportation department or funds provided by its insurer.

(2) A municipal corporation has no duty to repair or maintain, and is not liable for injuries or damages arising from, a portion of a county or state highway.

(3) If the state transportation department contracts with another governmental agency to perform work on a state trunk line highway, an action brought under this section for tort liability arising out of the performance of that work shall be brought only against the state transportation department under the same circumstances and to the same extent as if the work had been performed by employees of the state transportation department. The state transportation department has the same defenses to the action as it would have had if the work had been performed by its own employees. If an action described in this subsection could have been maintained against the state transportation department, it shall not be maintained against the governmental agency that performed the work for the state transportation department. The governmental agency also has the same defenses that could have been asserted by the state transportation department had the action been brought against the state transportation department.

(4) The contractual undertaking of a governmental agency to maintain a state trunk line highway confers contractual rights only on the state transportation department and does not confer third party beneficiary or other contractual rights in any other person to recover damages to person or property from that governmental agency. This subsection does not relieve the state transportation department of liability it may have, under this section, regarding that highway.

(5) The duty imposed by this section on a governmental agency is limited by sections 81131 and 82124 of the

natural resources and environmental protection act, 1994 PA 451, MCL 324.81131 and 324.82124.

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1990, Act 278, Imd. Eff. Dec. 11, 1990 ;-- Am. 1996, Act 150, Imd. Eff. Mar. 25, 1996 ;-- Am. 1999, Act 205, Imd. Eff. Dec. 21, 1999 ;-- Am. 2012, Act 50, Imd. Eff. Mar. 13, 2012
Compiler's Notes: Enacting section 1 of Act 205 of 1999 provides:â€œEnacting section 1. Sections 1 and 2 of 1964 PA 170, MCL 691.1401 and 691.1402, as amended by this amendatory act, and section 2a, as added by this amendatory act, apply only to a cause of action arising on or after the effective date of this amendatory act.â€
Popular Name: Governmental Immunity Act

691.1402a Municipal corporation; maintenance of sidewalk; liability; presumption; additional defense; limitation.

Sec. 2a.

(1) A municipal corporation in which a sidewalk is installed adjacent to a municipal, county, or state highway shall maintain the sidewalk in reasonable repair.

(2) A municipal corporation is not liable for breach of a duty to maintain a sidewalk unless the plaintiff proves that at least 30 days before the occurrence of the relevant injury, death, or damage, the municipal corporation knew or, in the exercise of reasonable diligence, should have known of the existence of the defect in the sidewalk.

(3) In a civil action, a municipal corporation that has a duty to maintain a sidewalk under subsection (1) is presumed to have maintained the sidewalk in reasonable repair. This presumption may only be rebutted by evidence of facts showing that a proximate cause of the injury was 1 or both of the following:

(a) A vertical discontinuity defect of 2 inches or more in the sidewalk.

(b) A dangerous condition in the sidewalk itself of a particular character other than solely a vertical discontinuity.

(4) Whether a presumption under subsection (3) has been rebutted is a question of law for the court.

(5) In a civil action, a municipal corporation that has a duty to maintain a sidewalk under subsection (1) may assert, in addition to any other defense available to it, any defense available under the common law with respect to a premises liability claim, including, but not limited to, a defense that the condition was open and obvious.

(6) A municipal corporation's liability under subsection (1) is limited by section 81131 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81131.

History: Add. 1999, Act 205, Imd. Eff. Dec. 21, 1999 ;-- Am. 2012, Act 50, Imd. Eff. Mar. 13, 2012 ;-- Am. 2016, Act 419, Imd. Eff. Jan. 4, 2017
Compiler's Notes: Enacting section 1 of Act 205 of 1999 provides:â€œEnacting section 1. Sections 1 and 2 of 1964 PA 170, MCL 691.1401 and 691.1402, as amended by this amendatory act, and section 2a, as added by this amendatory act, apply only to a cause of action arising on or after the effective date of this amendatory act.â€
Popular Name: Governmental Immunity Act
Popular Name: 2-Inch Rule

691.1403 Defective highways; knowledge of defect, repair.

Sec. 3.

No governmental agency is liable for injuries or damages caused by defective highways unless the governmental agency knew, or in the exercise of reasonable diligence should have known, of the existence of the defect and had a reasonable time to repair the defect before the injury took place. Knowledge of the defect and time to repair the same shall be conclusively presumed when the defect existed so as to be readily apparent to an ordinarily observant person for a period of 30 days or longer before the injury took place.

History: 1964, Act 170, Eff. July 1, 1965
Popular Name: Governmental Immunity Act

691.1404 Notice of injury and defect in highway.

Sec. 4.

(1) As a condition to any recovery for injuries sustained by reason of any defective highway, the injured person, within 120 days from the time the injury occurred, except as otherwise provided in subsection (3) shall serve a notice on the governmental agency of the occurrence of the injury and the defect. The notice shall specify the exact location and nature of the defect, the injury sustained and the names of the witnesses known at the time by the claimant.

(2) The notice may be served upon any individual, either personally, or by certified mail, return receipt requested, who may lawfully be served with civil process directed against the governmental agency, anything to the contrary in the charter of any municipal corporation notwithstanding. In case of the state, such notice shall be filed in triplicate with the clerk of the court of claims. Filing of such notice shall constitute compliance with section 6431 of Act No. 236 of the Public Acts of 1961, being section 600.6431 of the Compiled Laws of 1948, requiring the filing of notice of intention to file a claim against the state. If required by the legislative body or chief administrative officer of the responsible governmental agency, the claimant shall appear to testify, if he is physically able to do so, and shall produce his witnesses before the legislative body, a committee thereof, or the chief administrative officer, or his deputy, or a legal officer of the governmental agency as directed by the legislative body or chief administrative officer of the responsible governmental agency, for examination under oath as to the claim, the amount thereof, and the extent of the injury.

(3) If the injured person is under the age of 18 years at the time the injury occurred, he shall serve the notice required by subsection (1) not more than 180 days from the time the injury occurred, which notice may be filed by a parent, attorney, next friend or legally appointed guardian. If the injured person is physically or mentally incapable of giving notice, he shall serve the notice required by subsection (1) not more than 180 days after the termination of the disability. In all civil actions in which the physical or mental capability of the person is in dispute, that issue shall be determined by the trier of the facts. The provisions of this subsection shall apply to all charter provisions, statutes and ordinances which require written notices to counties or municipal corporations.

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1970, Act 155, Imd. Eff. Aug. 1, 1970 ;-- Am. 1972, Act 28, Imd. Eff. Feb. 19, 1972
Constitutionality: Notice requirement provision of section held to arbitrarily split all tortfeasors into two differently treated subclasses: private tortfeasors to whom no notice of claim is required, and governmental tortfeasors to whom notice is required. Such treatment held to violate equal protection guarantee of US Const, am XIV, Â§ 1, and Const 1963, art I, Â§ 2. Reich v State Highway Department, 386 Mich 617; 194 NW2d 700 (1972).The 120-day notice provision contained in this section does not violate the Michigan Constitution if it is posited as having the legitimate purpose of avoiding actual prejudice to the state. Hobbs v Department of State Highways, 398 Mich 90; 247 NW2d 754 (1975); Kerkstra v Department of State Highways, 398 Mich 103; 247 NW2d 759 (1975).
Popular Name: Governmental Immunity Act

691.1405 Government owned vehicles; liability for negligent operation.

Sec. 5.

Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is owner, as defined in Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

History: 1964, Act 170, Eff. July 1, 1965
Popular Name: Governmental Immunity Act

691.1406 Public buildings; dangerous condition; liability; notice, contents, service.

Sec. 6.

Governmental agencies have the obligation to repair and maintain public buildings under their control when

open for use by members of the public. Governmental agencies are liable for bodily injury and property damage resulting from a dangerous or defective condition of a public building if the governmental agency had actual or constructive knowledge of the defect and, for a reasonable time after acquiring knowledge, failed to remedy the condition or to take action reasonably necessary to protect the public against the condition. Knowledge of the dangerous and defective condition of the public building and time to repair the same shall be conclusively presumed when such defect existed so as to be readily apparent to an ordinary observant person for a period of 90 days or longer before the injury took place. As a condition to any recovery for injuries sustained by reason of any dangerous or defective public building, the injured person, within 120 days from the time the injury occurred, shall serve a notice on the responsible governmental agency of the occurrence of the injury and the defect. The notice shall specify the exact location and nature of the defect, the injury sustained and the names of the witnesses known at the time by the claimant.

The notice may be served upon any individual, either personally, or by certified mail, return receipt requested, who may lawfully be served with civil process directed against the responsible governmental agency, anything to the contrary in the charter of any municipal corporation notwithstanding. If required by the legislative body or chief administrative officer of the responsible governmental agency, the claimant shall appear to testify, when physically able to do so, and shall produce his witnesses before the legislative body, a committee thereof, the chief administrative officer, his deputy, or a legal officer of the governmental agency, as directed by the legislative body or by the chief administrative officer of the responsible governmental agency, for examination under oath as to the claim, the amount thereof, and the extent of the injury. Notice to the state of Michigan shall be given as provided in section 4. No action shall be brought under the provisions of this section against any governmental agency, other than a municipal corporation, except for injury or loss suffered after July 1, 1965.

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1970, Act 155, Imd. Eff. Aug. 1, 1970
Popular Name: Governmental Immunity Act

691.1406a Subrogation.

Sec. 6a.

A governmental agency against whom judgment has been entered pursuant to this act may seek subrogation where it is available by law or by contract and recover contribution from each co-defendant and joint and several tort feasor where appropriate pursuant to sections 2925a to 2925d of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.2925a to 600.2925d of the Michigan Compiled Laws.

History: Add. 1986, Act 175, Imd. Eff. July 7, 1986
Constitutionality: In Hyde v University of Michigan Regents, 426 Mich 223 (1986), the Supreme Court stated that â€œ1986 PA 175 was enacted, effective July 1, 1986.â€ Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.
Compiler's Notes: Section 3 of Act 175 of 1986 provides:â€œ(1) Sections 1, 7, and 13 of Act No. 170 of the Public Acts of 1964, as amended by this amendatory act, being sections 691.1401, 691.1407, and 691.1413 of the Michigan Compiled Laws, shall not apply to causes of action which arise before July 1, 1986.â€œ(2) Section 6a of Act No. 170 of the Public Acts of 1964, as added by this amendatory act, shall apply to cases filed on or after July 1, 1986.â€
Popular Name: Governmental Immunity Act

691.1407 Immunity from tort liability; intentional torts; immunity of judge, legislator, official, and guardian ad litem; immunity of governmental agency under MISS DIG underground facility damage prevention and safety act; definitions.

Sec. 7.

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

(2) Except as otherwise provided in this section, and without regard to the discretionary or ministerial nature of the conduct in question, each officer and employee of a governmental agency, each volunteer acting on behalf of a

governmental agency, and each member of a board, council, commission, or statutorily created task force of a governmental agency is immune from tort liability for an injury to a person or damage to property caused by the officer, employee, or member while in the course of employment or service or caused by the volunteer while acting on behalf of a governmental agency if all of the following are met:

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

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

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

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

(4) This act does not grant immunity to a governmental agency or an employee or agent of a governmental agency with respect to providing medical care or treatment to a patient, except medical care or treatment provided to a patient in a hospital owned or operated by the department of community health or a hospital owned or operated by the department of corrections and except care or treatment provided by an uncompensated search and rescue operation medical assistant or tactical operation medical assistant.

(5) A judge, a legislator, and the elective or highest appointive executive official of all levels of government are immune from tort liability for injuries to persons or damages to property if he or she is acting within the scope of his or her judicial, legislative, or executive authority.

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

(7) The immunity provided by this act does not apply to liability of a governmental agency under the MISS DIG underground facility damage prevention and safety act.

(8) As used in this section:

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

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

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

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

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

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

(iii) Training for the team.

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

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

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

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1970, Act 155, Imd. Eff. Aug. 1, 1970 ;-- Am. 1986, Act 175, Imd. Eff. July 7, 1986 ;-- Am. 1996, Act 143, Eff. May 1, 1996 ;-- Am. 1999, Act 241, Imd. Eff. Dec. 28, 1999 ;-- Am. 2000, Act 318, Imd. Eff. Oct. 24, 2000 ;-- Am. 2004, Act 428, Imd. Eff. Dec. 17, 2004 ;-- Am. 2005, Act 318, Imd. Eff. Dec. 27, 2005 ;-- Am. 2013, Act 173, Eff. Apr. 1, 2014
Compiler's Notes: Section 3 of Act 175 of 1986 provides:â€œ(1) Sections 1, 7, and 13 of Act No. 170 of the Public Acts of 1964, as amended by this amendatory act, being sections 691.1401, 691.1407, and 691.1413 of the Michigan Compiled Laws, shall not apply to causes of action which arise before July 1, 1986.â€œ(2) Section 6a of Act No. 170 of the Public Acts of 1964, as added by this amendatory act, shall apply to cases filed on or after July 1, 1986.â€Enacting section 1 of Act 318 of 2000 provides:â€œEnacting section 1. This amendatory act applies only to a cause of action arising on or after the effective date of this amendatory act.â€
Popular Name: Governmental Immunity Act

691.1407a Repealed. 1999, Act 241, Eff. Jan. 1, 2003.

Compiler's Notes: The repealed section pertained to immunity of political subdivision and governmental agency from liability resulting from

computer date failure.
Popular Name: Governmental Immunity Act

691.1407b Repealed. 1999, Act 242, Eff. Jan. 1, 2003.

Compiler's Notes: The repealed section pertained to immunity of municipal corporation from liability resulting from computer date failure.
Popular Name: Governmental Immunity Act

691.1407c Donated fire control or rescue equipment; liability; testing, repair, or maintenance; rights of employee or volunteer under MCL 418.101 to 418.941; "organized fire department" defined.

Sec. 7c.

(1) A municipal corporation, organized fire department, or agent of a municipal corporation or organized fire department that donates fire control or rescue equipment to another municipal corporation or organized fire department is not liable for damages for personal injury, death, or property damage proximately caused after the donation by a defect in the equipment.

(2) Before using equipment donated under subsection (1), a municipal corporation or organized fire department that receives the donated equipment shall have the equipment tested, repaired, or maintained if required by state or federal law, rule, or regulation. The municipal corporation or organized fire department shall not use the donated equipment unless the use is consistent with state and federal laws, rules, and regulations. Subject to subsection (3), a municipal corporation or organized fire department that complies with this subsection is not liable for damages for personal injury, death, or property damage proximately caused by a defect in the donated equipment.

(3) The immunity from liability provided by subsection (2) does not affect the rights of an employee or volunteer of the municipal corporation or organized fire department that receives the donated equipment to benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, or any similar law.

(4) As used in this section, "organized fire department" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

History: Add. 2006, Act 244, Imd. Eff. June 30, 2006
Popular Name: Governmental Immunity Act

691.1408 Claim or civil action against officer or employee of governmental agency for injuries caused by negligence; services of attorney; payment of claim; judgment for damages; indemnification; payment or settlement of judgment; criminal action against officer or employee of governmental agency; services of attorney; reimbursement for legal expenses; liability on governmental agency not imposed.

Sec. 8.

(1) If a claim is made or a civil action is commenced against an officer, employee, or volunteer of a governmental agency for injuries to persons or property caused by negligence of the officer, employee, or volunteer while in the course of employment with or acting on behalf of the governmental agency and while acting within the scope of his or her authority, the governmental agency may pay for, engage, or furnish the services of an attorney to advise the officer, employee, or volunteer as to the claim and to appear for and represent the officer, employee, or volunteer in the action. The governmental agency may compromise, settle, and pay the claim before or after the commencement of a civil action. If a judgment for damages is awarded against an officer, employee, or volunteer of a governmental agency as a result of a civil action for personal injuries or property damage caused by the officer, employee, or volunteer while in the course of employment and while acting within the scope of his or her authority, the governmental agency may indemnify the officer, employee, or volunteer or pay, settle, or compromise the judgment.

(2) If a criminal action is commenced against an officer or employee of a governmental agency based on the conduct of the officer or employee in the course of employment, if the employee or officer had a reasonable basis for believing that he or she was acting within the scope of his or her authority at the time of the alleged conduct, the governmental agency may pay for, engage, or furnish the services of an attorney to advise the officer or employee as to the action, and to appear for and represent the officer or employee in the action. An officer or employee who has incurred legal expenses after December 31, 1975 for conduct described in this subsection may obtain reimbursement for those expenses under this subsection.

(3) A governmental agency may pay for, engage, or furnish the services of an attorney to advise an officer, employee, or volunteer of the governmental agency, and to appear for and represent the officer, employee, or volunteer, in connection with civil or criminal litigation or an investigation or proceeding if the litigation, investigation, or proceeding involves the officer, employee, or volunteer as a result of his or her conduct in the course of employment with or actions taken on behalf of the governmental agency, subject to the following limitations:

(a) If a claim is made or a civil action is commenced against the officer, employee, or volunteer, subsection (1) of this section governs the governmental agency's authority to pay for, engage, or furnish the services of an attorney to advise the officer, employee, or volunteer as to the claim and to appear for and represent the officer, employee, or volunteer in the action.

(b) If a criminal action is commenced against the officer, employee, or volunteer, subsection (2) of this section governs the governmental agency's authority to pay for, engage, or furnish the services of an attorney to advise the officer, employee, or volunteer as to the action, and to appear for and represent the officer, employee, or volunteer in the action.

(4) This section does not impose liability on a governmental agency.

(5) This section is not intended to affect existing constitutional, statutory, and common law powers and duties of the Attorney General.

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1978, Act 141, Imd. Eff. May 11, 1978 ;-- Am. 2002, Act 400, Imd. Eff. May 30, 2002 ;-- Am. 2020, Act 357, Imd. Eff. Dec. 30, 2020
Compiler's Notes: Enacting section 1 of Act 357 of 2020 provides:"Enacting section 1. This amendatory act applies retroactively."
Popular Name: Governmental Immunity Act

691.1409 Liability insurance; waiver of defense.

Sec. 9.

(1) A governmental agency may purchase liability insurance to indemnify and protect the governmental agency against loss or to protect the governmental agency and an agent, officer, employee, or volunteer of the governmental agency against loss on account of an adverse judgment arising from a claim for personal injury or property damage caused by the governmental agency or its agent, officer, employee, or volunteer. A governmental agency may pay premiums for the insurance authorized by this section out of current funds.

(2) The existence of an insurance policy indemnifying a governmental agency against liability for damages is not a waiver of a defense otherwise available to the governmental agency in the defense of the claim.

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 2002, Act 400, Imd. Eff. May 30, 2002
Popular Name: Governmental Immunity Act

691.1410 Claims against state, political subdivision, or municipal corporation; procedure.

Sec. 10.

(1) Claims against the state authorized under this act shall be brought in the manner provided in sections 6401 to 6475 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.6401 to 600.6475 of the Michigan Compiled Laws, and against any political subdivision or municipal corporation by civil

action in any court having jurisdiction.

(2) Except as otherwise provided in this act, any claim that is authorized under this act shall be subject to the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.101 to 600.9947 of the Michigan Compiled Laws.

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1986, Act 175, Imd. Eff. July 7, 1986
Constitutionality: In Hyde v University of Michigan Regents, 426 Mich 223 (1986), the Supreme Court stated that â€œ1986 PA 175 was enacted, effective July 1, 1986.â€ Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.
Popular Name: Governmental Immunity Act

691.1411 Claim against government agency; limitation of actions.

Sec. 11.

(1) Every claim against any governmental agency shall be subject to the general law respecting limitations of actions except as otherwise provided in this section.

(2) The period of limitations for claims arising under section 2 of this act shall be 2 years.

(3) The period of limitations for all claims against the state, except those arising under section 2 of this act, shall be governed by chapter 64 of Act No. 236 of the Public Acts of 1961.

History: 1964, Act 170, Eff. July 1, 1965
Constitutionality: This section does not deny the equal protection of the law. Forest v Parmalee, 402 Mich 348; 262 NW2d 653 (1978).
Popular Name: Governmental Immunity Act

691.1412 Claims under act; defenses available.

Sec. 12.

Claims under this act are subject to all of the defenses available to claims sounding in tort brought against private persons.

History: 1964, Act 170, Eff. July 1, 1965
Popular Name: Governmental Immunity Act

691.1413 Damage arising out of performance of proprietary function.

Sec. 13.

The immunity of the governmental agency shall not apply to actions to recover for bodily injury or property damage arising out of the performance of a proprietary function as defined in this section. Proprietary function shall mean any activity which is conducted primarily for the purpose of producing a pecuniary profit for the governmental agency, excluding, however, any activity normally supported by taxes or fees. No action shall be brought against the governmental agency for injury or property damage arising out of the operation of proprietary function, except for injury or loss suffered on or after July 1, 1965.

History: 1964, Act 170, Eff. July 1, 1965 ;-- Am. 1986, Act 175, Imd. Eff. July 7, 1986
Constitutionality: Section 3 of Act 175 of 1986 provides:â€œ(1) Sections 1, 7, and 13 of Act No. 170 of the Public Acts of 1964, as amended by this amendatory act, being sections 691.1401, 691.1407, and 691.1413 of the Michigan Compiled Laws, shall not apply to causes of action which arise before July 1, 1986.â€œ(2) Section 6a of Act No. 170 of the Public Acts of 1964, as added by this amendatory act, shall apply to cases filed on or after July 1, 1986.â€In Hyde v University of Michigan Regents, 426 Mich 223 (1986), the Supreme Court stated that â€œ1986 PA 175 was enacted, effective July 1, 1986.â€ Act 175 was approved by the Governor July 6, 1986, and filed with Secretary of State July 7, 1986.

Popular Name: Governmental Immunity Act

691.1414 Repeal.

Sec. 14.

Chapter 22 of Act No. 283 of the Public Acts of 1909, as amended, being sections 242.1 to 242.8 of the Compiled Laws of 1948; section 2904 of Act No. 236 of the Public Acts of 1961, being section 600.2904 of the Compiled Laws of 1948; Act No. 59 of the Public Acts of 1951, as amended, being sections 124.101 to 124.103 of the Compiled Laws of 1948, are repealed.

History: 1964, Act 170, Eff. July 1, 1965
Popular Name: Governmental Immunity Act

691.1415 Effective date of act.

Sec. 15.

This act shall take effect July 1, 1965.

History: 1964, Act 170, Eff. July 1, 1965
Popular Name: Governmental Immunity Act

691.1416 Definitions.

Sec. 16.

As used in this section and sections 17 to 19:

(a) "Affected property" means real property affected by a sewage disposal system event.

(b) "Appropriate governmental agency" means a governmental agency that, at the time of a sewage disposal system event, owned or operated, or directly or indirectly discharged into, the portion of the sewage disposal system that allegedly caused damage or physical injury.

(c) "Claimant" means a property owner that believes that a sewage disposal system event caused damage to the owner's property, a physically injured individual who believes that a sewage disposal system event caused the physical injury, or a person making a claim on behalf of a property owner or physically injured individual. Claimant includes a person that is subrogated to a claim of a property owner or physically injured individual described in this subdivision.

(d) "Contacting agency" means any of the following within a governmental agency:

(i) The clerk of the governmental agency.

(ii) If the governmental agency has no clerk, an individual who may lawfully be served with civil process directed against the governmental agency.

(iii) Any other individual, agency, authority, department, district, or office authorized by the governmental agency to receive notice under section 19, including, but not limited to, an agency, authority, department, district, or office responsible for the operation of the sewage disposal system, such as a sewer department, water department, or department of public works.

(e) "Defect" means a construction, design, maintenance, operation, or repair defect.

(f) "Noneconomic damages" includes, but is not limited to, pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, and other nonpecuniary damages.

(g) "Person" means an individual, partnership, association, corporation, other legal entity, or a political subdivision.

(h) "Serious impairment of body function" means that term as defined in section 3135 of the insurance code of 1956, 1956 PA 218, MCL 500.3135.

(i) "Service lead" means an instrumentality that connects an affected property, including a structure, fixture, or improvement on the property, to the sewage disposal system and that is neither owned nor maintained by a governmental agency.

(j) "Sewage disposal system" means all interceptor sewers, storm sewers, sanitary sewers, combined sanitary and storm sewers, sewage treatment plants, and all other plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, and disposal of sewage and industrial wastes, and includes a storm water drain system under the jurisdiction and control of a governmental agency.

(k) "Sewage disposal system event" or "event" means the overflow or backup of a sewage disposal system onto real property. An overflow or backup is not a sewage disposal system event if any of the following was a substantial proximate cause of the overflow or backup:

(i) An obstruction in a service lead that was not caused by a governmental agency.

(ii) A connection to the sewage disposal system on the affected property, including, but not limited to, a sump system, building drain, surface drain, gutter, or downspout.

(iii) An act of war, whether the war is declared or undeclared, or an act of terrorism.

(l) "Substantial proximate cause" means a proximate cause that was 50% or more of the cause of the event and the property damage or physical injury.

History: Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002
Popular Name: Governmental Immunity Act

691.1417 Damages or physical injuries caused by sewage disposal system event; compliance of claimant and governmental agency with relief provisions.

Sec. 17.

(1) To afford property owners, individuals, and governmental agencies greater efficiency, certainty, and consistency in the provision of relief for damages or physical injuries caused by a sewage disposal system event, a claimant and a governmental agency subject to a claim shall comply with this section and the procedures in sections 18 and 19.

(2) A governmental agency is immune from tort liability for the overflow or backup of a sewage disposal system unless the overflow or backup is a sewage disposal system event and the governmental agency is an appropriate governmental agency. Sections 16 to 19 abrogate common law exceptions, if any, to immunity for the overflow or backup of a sewage disposal system and provide the sole remedy for obtaining any form of relief for damages or physical injuries caused by a sewage disposal system event regardless of the legal theory.

(3) If a claimant, including a claimant seeking noneconomic damages, believes that an event caused property damage or physical injury, the claimant may seek compensation for the property damage or physical injury from a governmental agency if the claimant shows that all of the following existed at the time of the event:

(a) The governmental agency was an appropriate governmental agency.

(b) The sewage disposal system had a defect.

(c) The governmental agency knew, or in the exercise of reasonable diligence should have known, about the defect.

(d) The governmental agency, having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct, or remedy the defect.

(e) The defect was a substantial proximate cause of the event and the property damage or physical injury.

(4) In addition to the requirements of subsection (3), to obtain compensation for property damage or physical injury from a governmental agency, a claimant must show both of the following:

(a) If any of the damaged property is personal property, reasonable proof of ownership and the value of the damaged personal property. Reasonable proof may include testimony or records documenting the ownership, purchase price, or value of the property, or photographic or similar evidence showing the value of the property.

(b) The claimant complied with section 19.

History: Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002
Popular Name: Governmental Immunity Act

691.1418 Economic damages; grounds for noneconomic damages; available defenses.

Sec. 18.

(1) Except as provided in subsection (2), economic damages are the only compensation for a claim under section 17. Except as provided in subsection (2), a court shall not award and a governmental agency shall not pay noneconomic damages as compensation for an event.

(2) A governmental agency remains subject to tort liability for noneconomic damages caused by an event only if the claimant or the individual on whose behalf the claimant is making the claim has suffered death, serious impairment of body function, or permanent serious disfigurement.

(3) In an action for noneconomic damages under section 17, the issues of whether a claimant or the individual on whose behalf the claimant is making the claim has suffered serious impairment of body function or permanent serious disfigurement are questions of law for the court if the court finds either of the following:

(a) There is no factual dispute concerning the nature and extent of the claimant's or the individual's injuries.

(b) There is a factual dispute concerning the nature and extent of the claimant's or the individual's injuries, but the dispute is not material to determining whether the claimant or the individual has suffered a serious impairment of body function or permanent serious disfigurement.

(4) Unless this act provides otherwise, a party to a civil action brought under section 17 has all applicable common law and statutory defenses ordinarily available in civil actions, and is entitled to all rights and procedures available under the Michigan court rules.

History: Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002
Popular Name: Governmental Immunity Act

***** 691.1419 THIS SECTION DOES NOT APPLY TO NONECONOMIC DAMAGES MADE UNDER SECTION 17: See subsection (7) *****

691.1419 Notice of claim; requirements.

Sec. 19.

(1) Except as provided in subsections (3) and (7), a claimant is not entitled to compensation under section 17 unless the claimant notifies the governmental agency of a claim of damage or physical injury, in writing, within 45 days after the date the damage or physical injury was discovered, or in the exercise of reasonable diligence should have been discovered. The written notice under this subsection shall contain the content required by subsection (2)(c) and shall be sent to the individual within the governmental agency designated in subsection (2)(b). To facilitate compliance with this section, a governmental agency owning or operating a sewage disposal system shall make available public information about the provision of notice under this section.

(2) If a person who owns or occupies affected property notifies a contacting agency orally or in writing of an event before providing a notice of a claim that complies with subsection (1), the contacting agency shall provide the person with all of the following information in writing:

(a) A sufficiently detailed explanation of the notice requirements of subsection (1) to allow a claimant to comply with the requirements.

(b) The name and address of the individual within the governmental agency to whom a claimant must send written notice under subsection (1).

(c) The required content of the written notice under subsection (1), which is limited to the claimant's name, address, and telephone number, the address of the affected property, the date of discovery of any property damages or physical injuries, and a brief description of the claim.

(3) A claimant's failure to comply with the notice requirements of subsection (1) does not bar the claimant from bringing a civil action under section 17 against a governmental agency notified under subsection (2) if the claimant can show both of the following:

(a) The claimant notified the contacting agency under subsection (2) during the period for giving notice under subsection (1).

(b) The claimant's failure to comply with the notice requirements of subsection (1) resulted from the contacting agency's failure to comply with subsection (2).

(4) If a governmental agency that is notified of a claim under subsection (1) believes that a different or additional governmental agency may be responsible for the claimed property damages or physical injuries, the governmental agency shall notify the contacting agency of each additional or different governmental agency of that fact, in writing, within 15 business days after the date the governmental agency receives the claimant's notice under subsection (1). This subsection is intended to allow a different or additional governmental agency to inspect a claimant's property or investigate a claimant's physical injury before litigation. Failure by a governmental agency to provide notice under this subsection to a different or additional governmental agency does not bar a civil action by the governmental agency against the different or additional governmental agency.

(5) If a governmental agency receives a notice from a claimant or a different or additional governmental agency that complies with this section, the governmental agency receiving notice may inspect the damaged property or investigate the physical injury. A claimant or the owner or occupant of affected property shall not unreasonably refuse to allow a governmental agency subject to a claim to inspect damaged property or investigate a physical injury. This subsection does not prohibit a governmental agency from subsequently inspecting damaged property or investigating a physical injury during a civil action brought under section 17.

(6) If a governmental agency notified of a claim under subsection (1) and a claimant do not reach an agreement on the amount of compensation for the property damage or physical injury within 45 days after the receipt of notice under this section, the claimant may institute a civil action. A civil action shall not be commenced under section 17 until after that 45 days.

(7) This section does not apply to claims for noneconomic damages made under section 17.

History: Add. 2001, Act 222, Imd. Eff. Jan. 2, 2002
Popular Name: Governmental Immunity Act

COVID-19 RESPONSE AND REOPENING LIABILITY ASSURANCE ACT

Act 236 of 2020

691.1451-691.1460 Repealed. 2022, Act 139, Eff. July 1, 2023.

***** Act 240 of 2020 This act applies retroactively on or after March 29, 2020 and before July 14, 2020: See 691.1477 *****

PANDEMIC HEALTH CARE IMMUNITY ACT

Act 240 of 2020

AN ACT to provide immunity for health care providers and health care facilities in the event of a pandemic; and to clarify the time frame for the immunity.

History: 2020, Act 240, Imd. Eff. Oct. 22, 2020

The People of the State of Michigan enact:

***** 691.1471 This section applies retroactively on or after March 29, 2020 and before July 14, 2020: See 691.1477 *****

691.1471 Short title.

Sec. 1.

This act shall be known and may be cited as the "pandemic health care immunity act".

History: 2020, Act 240, Imd. Eff. Oct. 22, 2020

***** 691.1473 This section applies retroactively on or after March 29, 2020 and before July 14, 2020: See 691.1477 *****

691.1473 Definitions.

Sec. 3.

As used in this act:

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

(b) "Health care facility" means an entity that is 1 or more of the following:

(i) A health facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(ii) A state-owned surgical center.

(iii) A state-operated outpatient facility.

(iv) A state-operated veterans facility.

(v) A facility used as surge capacity for any of the health care facilities described in this subdivision.

(c) "Health care provider" means an individual that is 1 or more of the following:

(i) An individual licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) An individual permitted to engage in the practice of a health profession under section 16171(c) of the public health code, 1978 PA 368, MCL 333.16171.

(iii) Emergency medical services personnel as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(iv) A student, volunteer, or any other licensed health care professional at a health care facility.

(d) "Health care services" means services provided to an individual by a health care facility or health care provider regardless of the location where those services are provided, including the provision of health care services via telehealth or other remote method.

(e) "Willful misconduct" means conduct or a failure to act that was intended to cause harm.

History: 2020, Act 240, Imd. Eff. Oct. 22, 2020

***** 691.1475 This section applies retroactively on or after March 29, 2020 and before July 14, 2020: See 691.1477 *****

691.1475 Health care provider or health care facility; immunity for health care services in response to COVID-19 pandemic.

Sec. 5.

A health care provider or health care facility that provides health care services in support of this state's response to the COVID-19 pandemic is not liable for an injury, including death, sustained by an individual by reason of those services, regardless of how, under what circumstances, or by what cause those injuries are sustained, unless it is established that the provision of the services constituted willful misconduct, gross negligence, intentional and willful

criminal misconduct, or intentional infliction of harm by the health care provider or health care facility.

History: 2020, Act 240, Imd. Eff. Oct. 22, 2020

***** 691.1476 This section applies retroactively on or after March 29, 2020 and before July 14, 2020: See 691.1477 *****

691.1476 Inapplicable to claims under the worker's disability compensation act of 1969.

Sec. 6.

This act does not apply to claims covered by the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

History: 2020, Act 240, Imd. Eff. Oct. 22, 2020

691.1477 Retroactive applicability.

Sec. 7.

The liability protection provided by this act applies retroactively, and applies on or after March 29, 2020 and before July 14, 2020.

History: 2020, Act 240, Imd. Eff. Oct. 22, 2020

LIABILITY OF CERTAIN PERSONS FOR EMERGENCY CARE

Act 17 of 1963

AN ACT to relieve certain persons from civil liability when rendering emergency care, when rendering care to persons involved in competitive sports under certain circumstances, or when participating in a mass immunization program approved by the department of public health.

History: 1963, Act 17, Eff. Sept. 6, 1963 ;-- Am. 1964, Act 60, Imd. Eff. May 12, 1964 ;-- Am. 1975, Act 123, Imd. Eff. July 1, 1975 ;-- Am. 1976, Act 202, Imd. Eff. July 23, 1976 ;-- Am. 1987, Act 30, Imd. Eff. May 26, 1987

The People of the State of Michigan enact:

691.1501 Physician, physician's assistant, nurse, or EMS provider rendering emergency care; determining fitness to engage in competitive sports; liability for acts or omissions; definitions.

Sec. 1.

(1) A physician, physician's assistant, registered professional nurse, licensed practical nurse, or licensed EMS provider who in good faith renders emergency care without compensation at the scene of an emergency, if a physician-patient relationship, physician's assistant-patient relationship, registered professional nurse-patient relationship, licensed practical nurse-patient, or licensed EMS provider-patient relationship did not exist before the emergency, is not liable for civil damages as a result of acts or omissions by the physician, physician's assistant, registered professional nurse, licensed practical nurse, licensed EMS provider in rendering the emergency care, except acts or omissions that amount to gross negligence or willful and wanton misconduct.

(2) A physician or physician's assistant who in good faith performs a physical examination without compensation on an individual to determine the individual's fitness to engage in competitive sports and who has obtained a form described in this subsection signed by the individual or, if the individual is a minor, by the parent or guardian of the minor, is not liable for civil damages as a result of acts or omissions by the physician or physician's assistant in performing the physical examination, except acts or omissions that amount to gross negligence or willful and wanton misconduct or that are outside the scope of the license held by the physician or physician's assistant. The form required by this subsection must contain a statement indicating that the person signing the form knows that the physician or physician's assistant is not necessarily performing a complete physical examination and is not liable under this section for civil damages as a result of acts or omissions by the physician or physician's assistant in performing the physical examination, except acts or omissions that amount to gross negligence or willful and wanton misconduct or that are outside the scope of the license held by the physician or physician's assistant.

(3) A physician, physician's assistant, registered professional nurse, licensed practical nurse, or licensed EMS provider who in good faith renders emergency care without compensation to an individual requiring emergency care as a result of having engaged in competitive sports is not liable for civil damages as a result of acts or omissions by the physician, physician's assistant, registered professional nurse, licensed practical nurse, or licensed EMS provider in rendering the emergency care, except acts or omissions that amount to gross negligence or willful and wanton misconduct and except acts or omissions that are outside the scope of the license held by the physician, physician's assistant, registered professional nurse, licensed practical nurse, or licensed EMS provider. This subsection applies to the rendering of emergency care to a minor even if the physician, physician's assistant, registered professional nurse, licensed practical nurse, or licensed EMS provider does not obtain the consent of the parent or guardian of the minor before the emergency care is rendered.

(4) As used in this act:

(a) "Competitive sports" means sports conducted as part of a program sponsored by a public or private school that provides instruction in grades kindergarten through 12 or a charitable or volunteer organization. Competitive sports do not include sports conducted as part of a program sponsored by a public or private college or university.

(b) "Licensed EMS provider" means an individual who is a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic, as those terms are defined in sections 20904 to 20908 of the public health code, 1978 PA 368, MCL 333.20904 to 333.20908.

(c) "Licensed practical nurse" means an individual licensed to engage in the practice of nursing as a licensed practical nurse under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(d) "Physician" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(e) "Physician's assistant" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery performed under the supervision of a physician as provided in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(f) "Registered professional nurse" means an individual licensed to engage in the practice of nursing as a registered professional nurse under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

History: Add. 1975, Act 123, Imd. Eff. July 1, 1975 ;-- Am. 2002, Act 543, Imd. Eff. July 26, 2002 ;-- Am. 2015, Act 209, Eff. Feb. 28, 2016

Compiler's Notes: Enacting section 1 of Act 543 of 2002 provides:â€œEnacting section 1. This amendatory act applies to a cause of action arising on or after the effective date of this amendatory act.â€

691.1502 Emergency care; exemption from civil liability; exception; staffing hospital emergency facilities.

Sec. 2.

(1) If the individual's actual hospital duty does not require a response to the emergency situation, a physician,

physician's assistant, dentist, podiatrist, intern, resident, registered professional nurse, licensed practical nurse, physical therapist, clinical laboratory technologist, inhalation therapist, certified registered nurse anesthetist, x-ray technician, or licensed EMS provider who in good faith responds to a life threatening emergency or responds to a request for emergency assistance in a life threatening emergency in a hospital or other licensed medical care facility is not liable for civil damages as a result of an act or omission in the rendering of emergency care, except an act or omission amounting to gross negligence or willful and wanton misconduct.

(2) The exemption from liability under subsection (1) does not apply to a physician if a physician-patient relationship, to a physician's assistant if a physician's assistant-patient relationship, or to a licensed nurse if a nurse-patient relationship existed before the emergency.

(3) The exemption from liability under subsection (1) does not apply to a physician's assistant unless the response by the physician's assistant is within the scope of the license held by the physician's assistant or within the expertise or training of the physician's assistant.

(4) This act does not diminish a hospital's responsibility to reasonably and adequately staff hospital emergency facilities if the hospital maintains or holds out to the general public that it maintains emergency room facilities.

History: Add. 1975, Act 123, Imd. Eff. July 1, 1975 ;-- Am. 2002, Act 543, Imd. Eff. July 26, 2002 ;-- Am. 2015, Act 209, Eff. Feb. 28, 2016
Compiler's Notes: Enacting section 1 of Act 543 of 2002 provides:â€œEnacting section 1. This amendatory act applies to a cause of action arising on or after the effective date of this amendatory act.â€

691.1503 Administration of opioid antagonist; liability; definitions.

Sec. 3.

(1) An individual who in good faith believes that another individual is suffering the immediate effects of an opioid-related overdose and who administers an opioid antagonist to the other individual is not liable in a civil action for damages resulting from the administration.

(2) This section does not apply in any of the following circumstances:

(a) If the individual who administers the opioid antagonist is a physician, physician's assistant, registered nurse, or licensed practical nurse and the opioid antagonist is administered in a hospital.

(b) If the conduct of the individual administering the opioid antagonist is willful or wanton misconduct.

(3) As used in this section:

(a) "Opioid antagonist" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal food and drug administration for the treatment of drug overdose.

(b) "Opioid-related overdose" means a condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death, that results from the consumption or use of an opioid or another substance with which an opioid was combined or that a layperson would reasonably believe to be an opioid-related overdose that requires medical assistance.

History: Add. 2014, Act 314, Imd. Eff. Oct. 14, 2014
Compiler's Notes: Former MCL 691.1503, which pertained to liability of health personnel and drug manufacturers participating in mass immunization programs, was repealed by Act 368 of 1978, Eff. Sept. 30, 1978.

691.1504 Rendering of cardiopulmonary resuscitation; applicability of subsection (1) to civil actions; use of automated external defibrillator; applicability of subsections (3) and (4).

Sec. 4.

(1) Subject to subsection (2), an individual who having no duty to do so in good faith voluntarily renders cardiopulmonary resuscitation to another individual is not liable in a civil action for damages resulting from an act or omission in rendering the cardiopulmonary resuscitation, except an act or omission that constitutes gross negligence or willful and wanton misconduct.

(2) Subsection (1) applies only to a civil action that is filed or pending on or after May 1, 1986.

(3) Subject to subsection (5), an individual who having no duty to do so in good faith voluntarily renders

emergency services to another individual using an automated external defibrillator is not liable in a civil action for damages resulting from an act or omission in rendering the emergency services using the automated external defibrillator, except an act or omission that constitutes gross negligence or willful and wanton misconduct.

(4) Subject to subsection (5), the following persons are not liable in a civil action for damages resulting from an act or omission of an individual rendering emergency services using an automated external defibrillator as described in subsection (3), except if the person's actions constitute gross negligence or willful and wanton misconduct:

(a) A physician who provides medical authorization for use of an automated external defibrillator.

(b) An individual who instructs others in the use of an automated external defibrillator.

(c) An individual or entity that owns, occupies, or manages the premises where an automated external defibrillator is located or used.

(5) Subsections (3) and (4) apply only to a civil action that is filed or pending on or after the effective date of the amendatory act that added this subsection.

History: Add. 1986, Act 21, Imd. Eff. Mar. 10, 1986 ;-- Am. 1999, Act 173, Imd. Eff. Nov. 16, 1999

691.1505 Liability of block parent volunteer; definitions.

Sec. 5.

(1) A block parent volunteer who in good faith and while acting as a block parent volunteer renders assistance to a minor during an emergency shall not be liable for civil damages resulting from an act or omission in the rendering of that assistance, except an act or omission amounting to gross negligence or wilful and wanton misconduct.

(2) As used in this section:

(a) "Block parent volunteer" means a person who is a member of a nonprofit volunteer organization which has as its primary function assisting minors in getting safely to and from school.

(b) "Minor" means a person who is less than 18 years of age.

History: Add. 1985, Act 150, Imd. Eff. Nov. 12, 1985

691.1507 Member of national ski patrol system rendering emergency care; liability for acts or omissions.

Sec. 7.

A person who is a registered member of the national ski patrol system and who, in good faith and while on patrol as a member of the national ski patrol system, renders emergency care at the scene of an emergency shall not be liable for civil damages as a result of acts or omissions by the person in rendering the emergency care, except acts or omissions amounting to gross negligence or willful and wanton misconduct.

History: Add. 1987, Act 30, Imd. Eff. May 26, 1987 ;-- Am. 2006, Act 43, Imd. Eff. Mar. 2, 2006

BLOOD BANKING AND TRANSFUSION PROCEDURES

Act 174 of 1967

691.1511,691.1512 Repealed. 1978, Act 368, Eff. Sept. 30, 1978.

IMMUNITY OF RESTAURANT OWNERS AND EMPLOYEES

Act 448 of 1978

AN ACT to provide immunity from civil action to restaurants, owners of restaurants, and employees of restaurants who aid individuals choking on foods.

History: 1978, Act 448, Imd. Eff. Oct. 11, 1978

The People of the State of Michigan enact:

691.1521 â€œRestaurantâ€ defined.

Sec. 1.

As used in this act, "restaurant" means a fixed or mobile establishment serving food to the public for consumption on the premises.

History: 1978, Act 448, Imd. Eff. Oct. 11, 1978

691.1522 Removal of food lodged in throat; liability of employee or owner of restaurant.

Sec. 2.

A restaurant or an employee or owner of a restaurant shall not be liable for civil damages if an employee or owner of a restaurant in good faith attempts to remove, removes, or assists in the removal or attempted removal of food which is lodged in an individual's throat, unless the employee or owner was grossly negligent in his or her actions.

History: 1978, Act 448, Imd. Eff. Oct. 11, 1978

IMMUNITY OF FOOD DONORS FROM CIVIL LIABILITY

Act 339 of 1982

691.1531-691.1536 Repealed. 1989, Act 207, Imd. Eff. Nov. 7, 1989;â€”1989, Act 207, Eff. July 1, 1993;â€”1993, Act 77, Imd. Eff. July 9, 1993;â€”1993, Act 136, Imd. Eff. Aug. 2, 1993.

SPORT SHOOTING RANGES

Act 269 of 1989

AN ACT to provide civil immunity to persons who operate or use certain sport shooting ranges; and to regulate the application of state and local laws, rules, regulations, and ordinances regarding sport shooting ranges.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989

The People of the State of Michigan enact:

691.1541 Definitions.

Sec. 1.

As used in this act:

(a) "Generally accepted operation practices" means those practices adopted by the commission of natural resources that are established by a nationally recognized nonprofit membership organization that provides voluntary firearm safety programs that include training individuals in the safe handling and use of firearms, which practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges. The generally accepted operation practices shall be reviewed at least every 5 years by the commission of natural resources and revised as the commission considers necessary. The commission shall adopt generally accepted operation practices within 90 days of the effective date of section 2a.

(b) "Local unit of government" means a county, city, township, or village.

(c) "Person" means an individual, proprietorship, partnership, corporation, club, governmental entity, or other legal entity.

(d) "Sport shooting range" or "range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989 ;-- Am. 1994, Act 250, Imd. Eff. July 5, 1994

691.1542 Sport shooting ranges; civil liability or criminal prosecution; state rules or regulations.

Sec. 2.

(1) Notwithstanding any other provision of law, and in addition to other protections provided in this act, a person who owns or operates or uses a sport shooting range that conforms to generally accepted operation practices in this state is not subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(2) In addition to other protections provided in this act, a person who owns, operates, or uses a sport shooting range that conforms to generally accepted operation practices is not subject to an action for nuisance, and a court of the state shall not enjoin or restrain the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(3) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere do not apply to a sport shooting range exempted from liability under this act. However, this subsection does not restrict the application of any provision of the generally accepted operation practices.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989 ;-- Am. 1994, Act 250, Imd. Eff. July 5, 1994

691.1542a Continuation of preexisting sport shooting ranges.

Sec. 2a.

(1) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance.

(2) A sport shooting range that is in existence as of the effective date of this section and operates in compliance

with generally accepted operation practices, even if not in compliance with an ordinance of a local unit of government, shall be permitted to do all of the following within its preexisting geographic boundaries if in compliance with generally accepted operation practices:

(a) Repair, remodel, or reinforce any conforming or nonconforming building or structure as may be necessary in the interest of public safety or to secure the continued use of the building or structure.

(b) Reconstruct, repair, restore, or resume the use of a nonconforming building damaged by fire, collapse, explosion, act of god, or act of war occurring after the effective date of this section. The reconstruction, repair, or restoration shall be completed within 1 year following the date of the damage or settlement of any property damage claim. If reconstruction, repair, or restoration is not completed within 1 year, continuation of the nonconforming use may be terminated in the discretion of the local unit of government.

(c) Do anything authorized under generally accepted operation practices, including, but not limited to:

(i) Expand or increase its membership or opportunities for public participation.

(ii) Expand or increase events and activities.

History: Add. 1994, Act 250, Imd. Eff. July 5, 1994

691.1543 Local regulation.

Sec. 3.

Except as otherwise provided in this act, this act does not prohibit a local unit of government from regulating the location, use, operation, safety, and construction of a sport shooting range.

History: 1989, Act 269, Imd. Eff. Dec. 26, 1989 ;-- Am. 1994, Act 250, Imd. Eff. July 5, 1994

691.1544 Acceptance of risk.

Sec. 4.

Each person who participates in sport shooting at a sport shooting range that conforms to generally accepted operation practices accepts the risks associated with the sport to the extent the risks are obvious and inherent. Those risks include, but are not limited to, injuries that may result from noise, discharge of a projectile or shot, malfunction of sport shooting equipment not owned by the shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

History: Add. 1994, Act 251, Imd. Eff. July 5, 1994

COMMUNITY DISPUTE RESOLUTION ACT

Act 260 of 1988

AN ACT to create the community dispute resolution program; to create the community dispute resolution fund; to establish criteria for funding and participation in the program; to provide for the administration of the program; to authorize pilot projects; to require the reporting of certain statistical data; and to repeal certain parts of this act on specific dates.

History: 1988, Act 260, Eff. Nov. 13, 1988 ;-- Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993

The People of the State of Michigan enact:

691.1551 Short title.

Sec. 1.

This act shall be known and may be cited as the "community dispute resolution act".

History: 1988, Act 260, Eff. Nov. 13, 1988

691.1552 Definitions.

Sec. 2.

As used in this act:

(a) "Administrative expenses" means expenses incurred by the state court administrator in implementing this act.

(b) "Available grant funds" means that portion of the community dispute resolution fund available for awards to grant recipients, after administrative expenses have been met.

(c) "Center" means a community-based dispute resolution center.

(d) "Fund" means the community dispute resolution fund.

(e) "Grant recipient" means a nonprofit or governmental organization that receives funds to operate a center pursuant to this act.

(f) "Mediator" means an impartial, neutral person who assists parties in voluntarily reaching their own settlement of issues in a dispute and who has no authoritative decision-making power.

(g) "Program" means the community dispute resolution program created by this act.

History: 1988, Act 260, Eff. Nov. 13, 1988 ;-- Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993

691.1553 Community dispute resolution program; creation; purpose.

Sec. 3.

The community dispute resolution program is created to provide conciliation, mediation, or other forms and techniques of voluntary dispute resolution to persons as an alternative to the judicial process.

History: 1988, Act 260, Eff. Nov. 13, 1988 ;-- Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993

691.1554 Community dispute resolution fund; creation; purpose; administration.

Sec. 4.

The program shall be funded by the community dispute resolution fund which is created in the state treasury and shall be administered by the state court administrator.

History: 1988, Act 260, Eff. Nov. 13, 1988

691.1555 Revenues, funds, and interest credited to fund.

Sec. 5.

(1) The department of treasury shall credit to the fund the revenues received pursuant to sections 2528, 2529, 5756, 8371, and 8420 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.2528, 600.2529, 600.5756, 600.8371, and 600.8420 of the Michigan Compiled Laws.

(2) The department of treasury shall credit to the fund any funds appropriated by the legislature and any federal or private funds received by the state for the purpose of implementing this act. Money in the fund at the end of the fiscal year shall remain in the fund, and shall not revert to the general fund.

(3) Interest generated by revenues in the community dispute resolution fund shall be credited to the community dispute resolution fund by the department of treasury and shall be used exclusively for purposes of this act.

History: 1988, Act 260, Eff. Nov. 13, 1988 ;-- Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993

691.1556 Participation in dispute resolution process.

Sec. 6.

(1) Participation in the dispute resolution process shall be voluntary and the form or technique utilized shall be by mutual agreement of the parties.

(2) Subject to subsection (1), a court may refer the parties to a civil action to a center funded under this act. The court shall not require that the parties to the civil action reach a settlement of the civil action through any dispute resolution process utilized at the center.

History: 1988, Act 260, Eff. Nov. 13, 1988 ;-- Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993

691.1556a Agreement; enforcement.

Sec. 6a.

If the parties involved in a dispute resolution process reach a settlement and execute a written agreement, the agreement is enforceable in the same manner as any other written contract.

History: Add. 1993, Act 286, Imd. Eff. Dec. 28, 1993

691.1556b Repealed. 1993, Act 286, Eff. Jan. 1, 1996.

Compiler's Notes: The repealed section pertained to pilot projects.

691.1557 Confidentiality.

Sec. 7.

(1) The work product and case files of a mediator or center and communications relating to the subject matter of

the dispute made during the dispute resolution process by a party, mediator, or other person are confidential and not subject to disclosure in a judicial or administrative proceeding except for either of the following:

(a) Work product, case files, or communications for which all parties to the dispute resolution process agree in writing to waive confidentiality.

(b) Work product, case files, or communications which are used in a subsequent action between the mediator and a party to the dispute resolution process for damages arising out of the dispute resolution process.

(2) Subsection (1) does not apply to statements, memoranda, materials, and other tangible evidence, otherwise subject to discovery, that were not prepared specifically for use in the dispute resolution process.

History: 1988, Act 260, Eff. Nov. 13, 1988 ;-- Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993

691.1557a Civil liability.

Sec. 7a.

A mediator of a community dispute resolution center shall not be held liable for civil damages for any act or omission in the scope of his or her employment or function as a mediator, unless he or she acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of the rights, safety, or property of another.

History: Add. 1993, Act 286, Imd. Eff. Dec. 28, 1993

691.1558 Administration of program.

Sec. 8.

This program shall be administered through community dispute resolution centers operated by grant recipients pursuant to a grant contract awarded by the state court administrator.

History: 1988, Act 260, Eff. Nov. 13, 1988

691.1559 Eligibility of grant recipient for funding.

Sec. 9.

To be eligible for funding, a grant recipient shall do all of the following:

(a) Comply with the provisions of this act, and any requirements or guidelines established by the state court administrator to effectuate the purposes of this act.

(b) Provide neutral mediators who have received not less than 40 hours of training in conflict resolution techniques and principles of the legal system in a course of study approved by the state court administrator or a program of internship as may be required by the state court administrator.

(c) Provide dispute resolution services without cost to indigents.

(d) Reject any dispute which involves alleged acts which are or could be the subject of a violent felony or drug-related felony criminal prosecution.

(e) When appropriate, refer participants to other agencies or organizations for assistance.

(f) Provide for community participation and respond to local community needs. In determining whether this requirement has been satisfied, the state court administrator shall consider the extent to which the applicant has the following:

(i) Active board members and mediators drawn from the community and client constituencies.

(ii) Programs and services that target local dispute resolution needs.

(iii) Local financial and in-kind support.
(iv) A diversified base of referral sources.

History: 1988, Act 260, Eff. Nov. 13, 1988 ;-- Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993

691.1560 Selection of grant recipients; contents of grant applications submitted for funding; allocations; matching amount; â€œcivil filing fee fundâ€ defined.

Sec. 10.

(1) Grant recipients shall be selected from applications submitted to the state court administrator. The grant applications submitted for funding shall include all of the following:
(a) The budget for the proposed center including the proposed compensation and qualifications of the employees.
(b) A description of the proposed geographical area of service and an estimate of the number of participants to be served.
(c) A description of current dispute resolution services, if any, available within the proposed geographical area.
(d) A narrative of the applicant's proposed program that includes the support of civic groups, social services agencies, local courts, and criminal justice agencies to accept and make referrals; the present availability of resources; and the applicant's administrative capacity.
(e) A description of the fee structure, if any, that will be applied to participants seeking dispute resolution.
(f) Such additional information as is determined to be needed by the state court administrator.
(2) If 1 or more applicants meet the eligibility requirements of section 9 and guidelines established under section 9, the state court administrator shall award a grant or grants from money distributed to the fund from the civil filing fee fund. Grants shall be allocated as follows:
(a) 65% of the money received from the civil filing fee fund shall be made available for disbursement on the basis of the annual civil court filings reported by courts. An eligible applicant shall receive a pro rata share of the available grant funds on the basis of the annual civil court filings reported by courts located in the counties serviced by the applicant.
(b) 35% of the money received from the civil filing fee fund and any money in the fund derived from other sources shall be made available for disbursement on the basis of performance measures and threshold funding levels established by the state court administrative office.
(3) Nothing in subsection (2) requires a grant award that exceeds the proposed center's approved budget.
(4) Each grant recipient shall provide a matching amount equal to at least 35% of the awarded grant amount.
(5) As used in this section, "civil filing fee fund" means that fund as created in section 171 of the revised judicature act of 1961, 1961 PA 236, MCL 600.171.

History: 1988, Act 260, Eff. Nov. 13, 1988 ;-- Am. 1993, Act 286, Imd. Eff. Dec. 28, 1993 ;-- Am. 2003, Act 79, Eff. Oct. 1, 2003

691.1561 Fiscal affairs of grant recipient; inspection, examination, and audit.

Sec. 11.

The state court administrator or other authorized state official shall have the power to inspect, examine, and audit the fiscal affairs of any grant recipient.

History: 1988, Act 260, Eff. Nov. 13, 1988

691.1562 Providing statistical data annually to state court administrator; annual report.

Sec. 12.

Each grant recipient shall annually provide to the state court administrator statistical data on its operating budget, the number of referrals, categories or types of cases referred, number of parties serviced, number of disputes resolved, nature of resolution, amount and type of awards, rate of compliance, returnees to the center, duration and estimated costs of hearing, and such other information the state court administrator may require. The state court administrator shall report annually to the governor and legislature regarding the operation and success of the centers funded pursuant to this act.

History: 1988, Act 260, Eff. Nov. 13, 1988

691.1563 Effective date.

Sec. 13.

This act shall take effect upon the expiration of 120 days after the date of its enactment.

History: 1988, Act 260, Eff. Nov. 13, 1988

691.1564 Conditional effective date.

Sec. 14.

This act shall not take effect unless Senate Bill No. 816 of the 84th Legislature is enacted into law.

History: 1988, Act 260, Eff. Nov. 13, 1988
Compiler's Notes: Senate Bill No. 816, referred to in this section, was filed with the Secretary of State August 17, 1988, and became P.A. 1988, No. 310, Eff. Jan. 1, 1989.

IMMUNITY OF FOOD DONORS FROM CIVIL LIABILITY

Act 136 of 1993

AN ACT to provide immunity from civil liability to persons who donate food for use or distribution by certain nonprofit or charitable corporations, organizations, or associations; and to repeal certain acts and parts of acts.

History: 1993, Act 136, Imd. Eff. Aug. 2, 1993

The People of the State of Michigan enact:

691.1571 Definitions.

Sec. 1.

As used in this act:

(a) "Canned food" means food that is commercially processed in hermetically sealed containers by a commercial processor.

(b) "Charitable organization" means a benevolent, educational, philanthropic, humane, patriotic, religious, or eleemosynary organization of persons organized for any lawful purpose or purposes not involving pecuniary profit or gain for its officers or members.

(c) "Commercial processor" means a person licensed pursuant to the food processing act of 1977, Act No. 328 of the Public Acts of 1978, being sections 289.801 to 289.810 of the Michigan Compiled Laws, or a person licensed pursuant to a law of another jurisdiction substantially corresponding to Act No. 328 of the Public Acts of 1978.

(d) "Commercially processed" means processed in a manner adequate to protect the public health and in accordance with current good manufacturing practices applicable to facilities, methods, practices, and controls used by a commercial processor in the manufacture, processing, or packing of low-acid foods in hermetically sealed containers.

(e) "Farm product" means an agricultural, dairy, or horticultural product or a product designed or intended for human consumption or prepared principally from agricultural, dairy, or horticultural produce.

(f) "Food" means articles used for food or drink for human consumption.

(g) "Food producer" includes, but is not limited to, restaurants, bakeries, cafeterias, caterers, and delicatessens.

(h) "Gleaner" means a person that harvests a donated agricultural crop for free distribution or nominal-cost distribution.

(i) "Hermetically sealed container" means a container that is designed and intended to prevent the entry of microorganisms and to maintain the commercial sterility of its content after processing.

(j) "Nonprofit corporation" means that term as defined in section 108 of the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being section 450.2108 of the Michigan Compiled Laws.

(k) "Person" means an individual, organization, group, association, partnership, corporation, trust, or any combination of these, including persons licensed pursuant to part 129 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.12901 to 333.12922 of the Michigan Compiled Laws, or licensed pursuant to the food processing act of 1977, Act No. 328 of the Public Acts of 1978, being sections 289.801 to 289.810 of the Michigan Compiled Laws.

(l) "Potentially hazardous food" means either or both of the following:

(i) A "potentially hazardous food or beverage" as that term is defined in section 12901(1)(c)(xi) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.12901 of the Michigan Compiled Laws.

(ii) A "potentially hazardous food and drink" as that term is defined in R 285.553.23 of the Michigan Administrative Code.

(m) "Prepared food" means food that has been sliced, assembled, formed, mixed, cooked, or subjected to other procedures to make it ready for serving.

History: 1993, Act 136, Imd. Eff. Aug. 2, 1993

691.1572 Perishable or prepared food donations to nonprofit corporation or charitable organizations; civil liability; exceptions to immunity.

Sec. 2.

(1) Except as provided in subsection (2), on or after July 1, 1993 an individual, farmer, food producer, processor, distributor, wholesaler, retailer, gleaner, or other person who in good faith donates perishable canned or farm food items or prepared food to a nonprofit corporation or charitable organization for distribution to needy or poor persons is not liable in any civil action based on the theory of warranty, negligence, or strict liability in tort for damages incurred resulting from any illness or disease contracted by the ultimate users or recipients of the food due to the nature, age, condition, or packaging of the food.

(2) The immunity provided in subsection (1) does not apply if 1 of the following is shown:

(a) That the illness or disease resulted from the willful, wanton, or reckless acts of the donor.

(b) That the illness or disease resulted from prepared food if both of the following apply:

(i) The prepared food was a potentially hazardous food at the time it was donated.

(ii) A law of this state or a rule promulgated by an agency or department of this state concerning the preparation, transportation, storage, or serving of the prepared food was violated at any time before the food was donated.

(c) That the illness or disease resulted from food in hermetically sealed containers that was not prepared by a commercial processor.

(d) That the donor had actual or constructive knowledge that the food was tainted, contaminated, or harmful to the health or well-being of the recipient of the donated food.

History: 1993, Act 136, Imd. Eff. Aug. 2, 1993

691.1573 Inspection of food by nonprofit or charitable organization; civil liability; exceptions to immunity.

Sec. 3.

(1) Except as provided in subsection (2), on or after July 1, 1993 a nonprofit corporation or charitable organization that in good faith receives food for free or nominal cost distribution and that reasonably inspects the food at the time of donation and finds the food apparently fit for human consumption is not liable in any civil action based on the theory of warranty, negligence, or strict liability in tort for damages incurred resulting from any illness or disease contracted by the ultimate users or recipients of the food due to the condition of the food.

(2) The immunity provided in subsection (1) does not apply if 1 of the following is shown:

(a) That the illness or disease resulted from the willful, wanton, or reckless acts of the nonprofit corporation or charitable organization.

(b) That the illness or disease resulted from prepared food if both of the following apply:

(i) The prepared food was a potentially hazardous food at the time it was donated.

(ii) A law of this state or a rule promulgated by an agency or department of this state concerning the preparation, transportation, storage, or serving of the prepared food was violated at any time before the ultimate user or recipient of the food actually received the food.

(c) That the illness or disease resulted from food in hermetically sealed containers that was not prepared by a commercial processor.

(d) That the corporation or organization had actual or constructive knowledge that the food was tainted, contaminated, or harmful to the health or well-being of the recipient of the donated food.

History: 1993, Act 136, Imd. Eff. Aug. 2, 1993

691.1574 Repeal of act.

Sec. 4.

Act No. 339 of the Public Acts of 1982 is repealed.

History: 1993, Act 136, Imd. Eff. Aug. 2, 1993

BOWLING CENTER ACT

Act 221 of 2011

AN ACT to require the operators of bowling centers to give certain notices to bowlers; and to grant immunity from civil liability to operators of bowling centers.

History: 2011, Act 221, Imd. Eff. Nov. 15, 2011

The People of the State of Michigan enact:

691.1581 Short title.

Sec. 1.

This act shall be known and may be cited as the "bowling center act".

History: 2011, Act 221, Imd. Eff. Nov. 15, 2011

691.1582 Definitions.

Sec. 2.

As used in this act:

(a) "Bowler" means a person in a bowling center for the purpose of recreational or competitive bowling.

(b) "Bowling center" means a structure that has an area specifically designed to be used by the public for recreational or competitive bowling.

(c) "Bowling shoes" means shoes that are specifically designed for the purpose of recreational or competitive bowling.

(d) "Operator" means a person that owns, manages, controls, directs, or has the responsibility of operating a bowling center.

History: 2011, Act 221, Imd. Eff. Nov. 15, 2011

691.1583 Notice; posting; contents.

Sec. 3.

An operator shall post a conspicuous notice in a conspicuous place near each entrance to and exit from a bowling center that reads as follows:

"Do not wear bowling shoes outside. Bowling shoes are specialized footwear for indoor use only. Bowling shoes worn outside may be affected by substances or materials including but not limited to snow, ice, rain, moisture, food, or debris that may cause the person wearing the bowling shoes to slip, trip, stumble, or fall on the floor or alley surfaces inside the bowling center. Michigan law makes a bowling center posting this notice immune from liability for such an injury.".

History: 2011, Act 221, Imd. Eff. Nov. 15, 2011

691.1584 Slip, trip, stumble, or fall caused from bowler's bowling shoes; liability.

Sec. 4.

(1) If an operator posts a notice as required by section 3, the operator is not civilly liable for injuries to a bowler resulting from a slip, trip, stumble, or fall inside the bowling center substantially caused by a substance or material on the bowler's bowling shoes that was acquired outside the bowling center before the bowler entered or reentered the bowling center.

(2) The protection from liability under this section does not apply if the injury results from acts or omissions amounting to willful or wanton misconduct or if the operator fails to maintain the premises in a reasonably safe condition and the condition substantially causes the injury to the bowler.

History: 2011, Act 221, Imd. Eff. Nov. 15, 2011

691.1585 Applicability of act to actions accruing on or after January 1, 2012.

Sec. 5.

This act applies only to a cause of action that accrues on or after January 1, 2012.

History: 2011, Act 221, Imd. Eff. Nov. 15, 2011

DRUG DEALER LIABILITY ACT

Act 27 of 1994

AN ACT to provide actions for civil damages against persons who participate in illegally marketing controlled substances; and to prescribe parties, procedures, and damages regarding that action.

History: 1994, Act 27, Eff. Apr. 1, 1994

The People of the State of Michigan enact:

691.1601 Short title; purpose of act.

Sec. 1.

(1) This act shall be known and may be cited as the "drug dealer liability act".

(2) The purpose of this act is to provide for actions for civil damages against persons who participate in illegal marketing of controlled substances for injuries caused by illegal use of controlled substances in order to do all of the following:

(a) Compensate persons injured as a result of illegal marketing of controlled substances.

(b) Assess the cost of illegal marketing of controlled substances against persons who profit from that market.

(c) Provide an incentive for individual abusers to identify persons from whom the abusers have acquired illegally marketed controlled substances and to seek payment for the abusers' own treatment.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1602 Meanings of words and phrases.

Sec. 2.

For the purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1603 Definitions; C to L.

Sec. 3.

(1) "Controlled substance" means that term as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws.

(2) "Individual abuser" means an individual who uses a controlled substance that is not obtained directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of the practitioner's professional practice, or which use is not otherwise authorized under article 7 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7101 to 333.7544 of the Michigan Compiled Laws.

(3) "Level 1 participation" means participating in illegal marketing of 650 or more grams of a mixture containing a specified controlled substance, or of 16 or more pounds or 100 or more plants of marihuana.

(4) "Level 2 participation" means participating in illegal marketing of 225 or more grams, but less than 650 grams, of a mixture containing a specified controlled substance, or of 8 or more pounds or 75 or more plants, but less than 16 pounds or 100 plants, of marihuana.

(5) "Level 3 participation" means participating in illegal marketing of 50 or more grams, but less than 225 grams, of a mixture containing a specified controlled substance, or of 4 or more pounds or 50 or more plants, but less than 8 pounds or 75 plants, of marihuana.

(6) "Level 4 participation" means participating in illegal marketing of less than 50 grams of a mixture containing a specified controlled substance, or of 1 or more pounds or 25 or more plants, but less than 4 pounds or 50 plants, of marihuana.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1604 Definitions; M to S.

Sec. 4.

(1) "Market area" means the area in which a person is presumed to have participated in illegal marketing of a market area controlled substance as described in section 9.

(2) "Market area controlled substance" means a specified controlled substance or marihuana.

(3) "Participate in illegal marketing" means doing any of the following in violation of state or federal law:

(a) Manufacturing or delivering, or attempting or conspiring to manufacture or deliver, a controlled substance.

(b) Possessing, or attempting or conspiring to possess, a controlled substance with the intent to manufacture or deliver a controlled substance.

(4) "Person" means an individual, governmental entity, sole proprietorship, corporation, limited liability company, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized by the laws of this state, another state, or a foreign country.

(5) "Practitioner" means that term as defined in section 7109 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7109 of the Michigan Compiled Laws.

(6) "Specified controlled substance" means a controlled substance described in section 7212(1)(b) or section 7214(a)(iv) or (c)(ii) of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7212 and 333.7214 of the Michigan Compiled Laws.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1605 Action against participant in illegal marketing of controlled substances; person injured by individual abuser; presumption.

Sec. 5.

(1) A person injured by an individual abuser may bring an action under this act for damages against a person who participated in illegal marketing of the controlled substance actually used by the individual abuser.

(2) If a plaintiff in an action under this section proves that the defendant participated in illegal marketing of the

controlled substance actually used by the individual abuser who injured the plaintiff, the defendant is presumed to have injured the plaintiff and to have acted willfully and wantonly.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1606 Action against participant in illegal marketing of controlled substance; recovery of damages by individual abuser; conditions.

Sec. 6.

(1) Subject to subsection (2), an individual abuser may bring an action under this act for damages against a person who participated in illegal marketing of the controlled substance actually used by the individual abuser.

(2) An individual abuser shall not recover damages under this section unless the individual abuser meets all of the following conditions:

(a) Not less than 6 months before filing the action, the individual personally discloses to law enforcement authorities all of the information the individual knows regarding his or her source of illegally marketed controlled substances.

(b) The individual has not used an illegally marketed controlled substance within the 6 months before filing the action.

(c) The individual does not use an illegally marketed controlled substance during the pendency of the action.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1607 Action against participant in illegal marketing of market area controlled substance; person injured by individual abuser; burden of proof; presumption.

Sec. 7.

(1) Other than an individual abuser, a person injured by an individual abuser may bring an action for damages against a person who participated in illegal marketing of the market area controlled substance used by the individual abuser. In an action brought under this section, participation in illegal marketing shall be proven by clear and convincing evidence.

(2) If the plaintiff in an action under this section proves a defendant's participation in illegal marketing of a market area controlled substance and the plaintiff is 1 of the following, the defendant is presumed to have injured the plaintiff and to have acted willfully and wantonly:

(a) A parent, legal guardian, child, spouse, or sibling of the individual abuser.

(b) A child whose mother was an individual abuser while the child was in utero.

(c) The individual abuser's employer.

(d) A medical facility, insurer, governmental entity, or other legal entity that financially supports a drug treatment or other assistance program for, or that otherwise expends money or provides unreimbursed service on behalf of, the individual abuser.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1608 Proof of participation in illegal marketing of market area controlled substance; â€œmarket areaâ€ explained.

Sec. 8.

(1) A plaintiff under section 7 may prove that a defendant participated in illegal marketing of the market area

controlled substance used by the individual abuser who injured the plaintiff by proving both of the following:

(a) The defendant was participating in the illegal marketing of the market area controlled substance at the time the individual abuser obtained or used that market area controlled substance.

(b) The individual abuser obtained or used the market area controlled substance, or caused the injury, within the defendant's market area.

(2) If a person participated in illegal marketing of a market area controlled substance, the person's market area for that controlled substance is the following:

(a) For level 4 participation, each county in which the person participated in illegal marketing.

(b) For level 3 participation, each market area described in subdivision (a) plus all counties with a border contiguous to each of those market areas.

(c) For level 2 participation, each market area described in subdivision (b) plus all counties with a border contiguous to each of those market areas.

(d) For level 1 participation, the state.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1609 Participation in illegal marketing of controlled substance; presumptions.

Sec. 9.

(1) If a defendant under this act has a criminal conviction under state or federal law for an act that constitutes participation in illegal marketing of a controlled substance under this act, that person is conclusively presumed to have participated in illegal marketing of a controlled substance for the purposes of this act.

(2) If a defendant is proven or presumed to have participated in illegal marketing of a controlled substance, that defendant is presumed to have participated during the 2 years before and the 2 years after the date of the participation or conviction, unless the defendant proves otherwise by clear and convincing evidence.

(3) In addition to each county in which a defendant is proven to have actually participated in illegal marketing of a controlled substance, the defendant is presumed to have participated in each county in which the defendant resides, attends school, is employed, or does business during the period of participation. In addition to the counties in which the individual abuser is proven to have obtained or used the controlled substance, the individual abuser is presumed to have obtained or used the controlled substance in each county in which the individual resides, attends school, or is employed during the period of the individual's abuse of that controlled substance, unless the defendant proves otherwise by clear and convincing evidence.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1610 Recovery of damages, attorney fees, and costs; payment by third party.

Sec. 10.

(1) A person other than an individual abuser who is entitled to a recovery under this act may recover economic, noneconomic, and exemplary damages and reasonable attorney fees and costs, including, but not limited to, reasonable expenses for expert testimony. An individual abuser entitled to recovery under this act may recover economic damages and reasonable attorney fees and costs, including, but not limited to, reasonable expenses for expert testimony.

(2) A third party shall not pay damages awarded under this act, or provide a defense or money for a defense, on behalf of an insured under a contract of insurance or indemnification.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1611 Writ of attachment; affidavit; hearing; eligibility to exempt property; judgment not subject to discharge under bankruptcy law; use of seized asset to satisfy judgment.

Sec. 11.

(1) After commencing an action under this act and subject to subsection (4), a plaintiff may seek a writ of attachment by filing an ex parte motion supported by an affidavit setting forth specific facts showing all of the following:

(a) A description of the injury claimed and a statement that the affiant in good faith believes that the defendant is liable to the plaintiff in a stated amount.

(b) The defendant is subject to the judicial jurisdiction of the state.

(c) After diligent effort, the plaintiff cannot serve the defendant with process.

(2) If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

(3) Unless precluded by the state or federal constitutions, a person against whom a judgment has been rendered under this act is not eligible to exempt any property, of whatever kind, from process to levy or process to execute on the judgment. Unless the jury, or the court if there is no jury, specifically finds otherwise, the actions for which a person is found liable under this act are willful and malicious, and the judgment is not subject to discharge under federal bankruptcy law as provided in 11 U.S.C. 523.

(4) An asset shall not be used to satisfy a judgment under this act if that asset is named in or has been seized for a forfeiture action by a state or federal agency before a plaintiff commences an action under this act, unless the asset is released after the forfeiture action or is released by the agency that seized the asset.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1612 Cause of action; accrual; tolling of statute of limitations.

Sec. 12.

Except as otherwise provided in this section, a cause of action accrues under this act when a person who may recover has reason to know of the harm from use of an illegally marketed controlled substance that is the basis for the cause of action and has reason to know that the controlled substance use is the cause of the harm. For a plaintiff, the statute of limitations under this section is tolled while the individual potential plaintiff is incapacitated by the use of an illegally marketed controlled substance to the extent that the individual cannot reasonably be expected to seek recovery under this act or as otherwise provided by law.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1613 Representation by prosecuting attorney; stay of action; actions against law enforcement officer, agency, or certain persons prohibited.

Sec. 13.

(1) A prosecuting attorney may represent the state or a political subdivision of the state in an action brought under this act.

(2) On motion by a governmental agency involved in a controlled substance investigation or prosecution, an action brought under this act shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

(3) An action shall not be brought under this act against a law enforcement officer or agency, or a person acting in good faith at the direction of a law enforcement officer or agency, for participation in illegal marketing of a controlled substance if that participation is in the furtherance of an official investigation.

History: 1994, Act 27, Eff. Apr. 1, 1994

691.1619 Effective date; applicability of act to action arising on and after April 1, 1994; other actions not precluded.

Sec. 19.

This act shall take effect April 1, 1994. This act applies only to an action arising on and after April 1, 1994. This act does not preclude an action for damages otherwise available on or after April 1, 1994.

History: 1994, Act 27, Eff. Apr. 1, 1994

SOCIAL SERVICES AGENCY LIABILITY ACT

Act 590 of 2012

AN ACT to provide protection from civil liability to persons that provide court-appointed social services.

History: 2012, Act 590, Imd. Eff. Jan. 7, 2013

The People of the State of Michigan enact:

691.1631 Short title.

Sec. 1.

This act shall be known and may be cited as the "social services agency liability act".

History: 2012, Act 590, Imd. Eff. Jan. 7, 2013

691.1633 Definitions.

Sec. 3.

As used in this act:

(a) "Child social welfare program" means a child welfare residential or home-based program, a program involving foster care coordination including adoption activities, a respite care program, or behavioral health or early education services operating under contract and as an agent for the department of human services.

(b) "Gross negligence" means conduct or a failure to act that is so reckless that it demonstrates a substantial lack of concern for whether an injury will result.

(c) "Person" means an individual, partnership, corporation, association, or other legal entity, other than a governmental agency.

(d) "Social services agency" means a person, other than an individual, that is licensed by this state to provide child social welfare programs.

(e) "Willful misconduct" means conduct or a failure to act that is intended to harm the plaintiff.

History: 2012, Act 590, Imd. Eff. Jan. 7, 2013

691.1635 Immunity of social services agency and its director, member, officer, employee, or agent; exception.

Sec. 5.

(1) Subject to subsections (3) and (4), a social services agency is immune from liability for personal injury or property damage caused by the agency's provision of a child social welfare program.

(2) Subject to subsections (3) and (4), a director, member, officer, employee, or agent of a social services agency is immune from liability for personal injury or property damage caused by the director, member, officer, employee, or agent while acting on behalf of the agency in the conduct of a child social welfare program if the director, member, officer, employee, or agent is acting or reasonably believes he or she is acting within the scope of his or her authority.

(3) This section does not apply if the conduct that causes personal injury or property damage amounts to gross negligence or is willful misconduct.

(4) This section does not apply if the conduct that causes personal injury or property damage is prohibited by law and a violation of the prohibition is punishable by imprisonment.

History: 2012, Act 590, Imd. Eff. Jan. 7, 2013

691.1637 Presumption that action within scope of authority.

Sec. 7.

In a civil action for damages resulting from the conduct of a child social welfare program, there is a presumption that a director, member, officer, employee, or agent of a social services agency was acting within the scope of his or her authority and that the conduct of the director, member, officer, employee, or agent did not amount to gross negligence, was not willful misconduct, and was not punishable by imprisonment.

History: 2012, Act 590, Imd. Eff. Jan. 7, 2013

EQUINE ACTIVITY LIABILITY ACT

Act 351 of 1994

AN ACT to regulate civil liability related to equine activities; and to prescribe certain duties for equine professionals.

History: 1994, Act 351, Eff. Mar. 30, 1995

The People of the State of Michigan enact:

691.1661 Short title.

Sec. 1.

This act shall be known and may be cited as the "equine activity liability act".

History: 1994, Act 351, Eff. Mar. 30, 1995

691.1662 Definitions.

Sec. 2.

As used in this act:

(a) "Engage in an equine activity" means riding, training, driving, breeding, being a passenger upon, or providing or assisting in veterinary treatment of an equine, whether mounted or unmounted. Engage in an equine activity includes visiting, touring, or utilizing an equine facility as part of an organized event or activity including the breeding of equines, or assisting a participant or show management. Engage in equine activity does not include spectating at an equine activity, unless the spectator places himself or herself in an unauthorized area and in immediate proximity to the equine activity.

(b) "Equine" means horse, pony, mule, donkey, or hinny.

(c) "Equine activity" means any of the following:

(i) An equine show, fair, competition, performance, or parade including, but not limited to, dressage, a hunter and jumper horse show, grand prix jumping, a 3-day event, combined training, a rodeo, riding, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding, gymkhana games, and hunting.

(ii) Equine training or teaching activities.

(iii) Boarding equines, including their normal daily care.

(iv) Breeding equines, including the normal daily care and activities associated with breeding equines.

(v) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner receives monetary consideration or another thing of value for the use of the equine or is permitting a prospective purchaser of the equine or an agent to ride, inspect, or evaluate the equine.

(vi) A ride, trip, hunt, or other activity, however informal or impromptu, that is sponsored by an equine activity sponsor.

(vii) Placing or replacing a horseshoe on or hoof trimming of an equine.

(d) "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether or not operating for profit, that sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, a pony club; 4-H club; hunt club; riding club; school- or college-sponsored class, program, or activity; therapeutic riding program; stable or farm owner; and operator, instructor, or promoter of an equine facility including, but not limited to, a stable, clubhouse, ponyride string, fair, or arena at which the equine activity is held.

(e) "Equine professional" means a person engaged in any of the following for compensation:

(i) Instructing a participant in an equine activity.

(ii) Renting an equine, equipment, or tack to a participant.

(iii) Providing daily care of horses boarded at an equine facility.

(iv) Training an equine.

(v) Breeding of equines for resale or stock replenishment.

(f) "Inherent risk of an equine activity" means a danger or condition that is an integral part of an equine activity, including, but not limited to, any of the following:

(i) An equine's propensity to behave in ways that may result in injury, harm, or death to a person on or around it.

(ii) The unpredictability of an equine's reaction to things such as sounds, sudden movement, and people, other animals, or unfamiliar objects.

(iii) A hazard such as a surface or subsurface condition.

(iv) Colliding with another equine or object.

(g) "Participant" means an individual, whether amateur or professional, engaged in an equine activity, whether or not a fee is paid to participate.

History: 1994, Act 351, Eff. Mar. 30, 1995

691.1663 Injury, death, or property damage; liability.

Sec. 3.

Except as otherwise provided in section 5, an equine activity sponsor, an equine professional, or another person is not liable for an injury to or the death of a participant or property damage resulting from an inherent risk of an equine activity. Except as otherwise provided in section 5, a participant or participant's representative shall not make a claim for, or recover, civil damages from an equine activity sponsor, an equine professional, or another person for injury to or the death of the participant or property damage resulting from an inherent risk of an equine activity.

History: 1994, Act 351, Eff. Mar. 30, 1995

691.1664 Liability; exception; waiver.

Sec. 4.

(1) This act does not apply to a horse race meeting that is regulated by the racing law of 1980, Act No. 327 of the Public Acts of 1980, being sections 431.61 to 431.88 of the Michigan Compiled Laws.

(2) Two persons may agree in writing to a waiver of liability beyond the provisions of this act and such waiver shall be valid and binding by its terms.

History: 1994, Act 351, Eff. Mar. 30, 1995

691.1665 Liability not prevented or limited; conditions.

Sec. 5.

Section 3 does not prevent or limit the liability of an equine activity sponsor, equine professional, or another person if the equine activity sponsor, equine professional, or other person does any of the following:

(a) Provides equipment or tack and knows or should know that the equipment or tack is faulty, and the equipment or tack is faulty to the extent that it is a proximate cause of the injury, death, or damage.

(b) Provides an equine and fails to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and to determine the ability of the participant to safely manage the particular equine. A person shall not rely upon a participant's representations of his or her ability unless these representations are supported by reasonably sufficient detail.

(c) Owns, leases, rents, has authorized use of, or otherwise is in lawful possession and control of land or facilities on which the participant sustained injury because of a dangerous latent condition of the land or facilities that is known to the equine activity sponsor, equine professional, or other person and for which warning signs are not conspicuously posted.

(d) If the person is an equine activity sponsor or equine professional, commits an act or omission that constitutes a willful or wanton disregard for the safety of the participant, and that is a proximate cause of the injury, death, or damage.

(e) If the person is not an equine activity sponsor or equine professional, commits a negligent act or omission that constitutes a proximate cause of the injury, death, or damage.

History: 1994, Act 351, Eff. Mar. 30, 1995 ;-- Am. 2015, Act 87, Eff. Sept. 21, 2015

691.1666 Notice; posting and maintenance of signs; contract; contents of notice.

Sec. 6.

(1) An equine professional shall post and maintain signs that contain the warning notice set forth in subsection (3). The signs shall be placed in a clearly visible location in close proximity to the equine activity. The warning

notice shall appear on the sign in conspicuous letters no less than 1 inch in height.

(2) A written contract entered into by an equine professional for providing professional services, instruction, or rental of equipment, tack, or an equine to a participant, whether or not the contract involves an equine activity on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice set forth in subsection (3).

(3) A sign or contract described in this section shall contain substantially the following warning notice:

WARNING

Under the Michigan equine activity liability act, an equine professional is not liable for an injury to or the death of a participant in an equine activity resulting from an inherent risk of the equine activity.

History: 1994, Act 351, Eff. Mar. 30, 1995

691.1667 Applicability of act.

Sec. 7.

This act applies only to a cause of action filed on or after the effective date of this act.

History: 1994, Act 351, Eff. Mar. 30, 1995

OPIOID LIABILITY LITIGATION ACT

Act 85 of 2022

AN ACT to prohibit the commencement of civil actions relating to opioids by certain governmental officers and entities.

History: 2022, Act 85, Imd. Eff. May 19, 2022

The People of the State of Michigan enact:

691.1671 Short title.

Sec. 1.

This act may be cited as the "opioid liability litigation act".

History: 2022, Act 85, Imd. Eff. May 19, 2022

691.1672 Definitions.

Sec. 2.

As used in this act:

(a) "Allergan settlement" means the master settlement agreement arising out of the MDL and entered into by this

state with Allergan Pharmaceuticals.

(b) "CVS settlement" means the master settlement agreement arising out of the MDL and entered into by this state with CVS Pharmacy.

(c) "Distributor settlement" means the master settlement agreement arising out of the MDL and entered into by this state with AmerisourceBergen Corporation, Cardinal Health, Inc., and McKesson Corporation.

(d) "Janssen settlement" means the master settlement agreement arising out of the MDL and entered into by this state with Janssen Pharmaceuticals, Inc.

(e) "MDL" means In re Nat'l Prescription Opiate Litigation, multidistrict litigation consolidated in the United States District Court for the Northern District of Ohio, Case No. 1:17-MD-2804.

(f) "Political subdivision" means a public body corporate in this state, an agency of a public body corporate in this state, a nonincorporated body in this state of whatever nature, or an agency of a nonincorporated body in this state. Political subdivision includes a county, city, village, township, school district, or special district or authority of this state. Political subdivision does not include this state.

(g) "Teva settlement" means the master settlement agreement arising out of the MDL and entered into by this state with Teva Pharmaceuticals.

(h) "Walgreens national settlement" means the master settlement agreement arising out of the MDL and entered into by this state with Walgreens Pharmacy.

(i) "Walmart settlement" means the master settlement agreement arising out of the MDL and entered into by this state with Walmart.

History: 2022, Act 85, Imd. Eff. May 19, 2022 ;-- Am. 2023, Act. 228, Imd. Eff. Nov. 22, 2023

691.1673 Prohibition on civil actions related to certain opioid settlements.

Sec. 3.

A political subdivision of this state shall not commence or maintain an action as follows:

(a) After January 1, 2021, an action related to the released claims as defined in the distributor settlement against the released entities as defined in the distributor settlement.

(b) After January 1, 2021, an action related to the released claims as defined in the Janssen settlement against the released entities as defined in the Janssen settlement.

(c) After January 1, 2022, an action related to the released claims as defined in the Allergan settlement against the released entities as defined in the Allergan settlement.

(d) After January 1, 2022, an action related to the released claims as defined in the CVS settlement against the released entities as defined in the CVS settlement.

(e) After January 1, 2022, an action related to the released claims as defined in the Teva settlement against the released entities as defined in the Teva settlement.

(f) After January 1, 2022, an action related to the released claims as defined in the Walgreens national settlement against the released entities as defined in the Walgreens national settlement.

(g) After January 1, 2022, an action related to the released claims as defined in the Walmart settlement against the released entities as defined in the Walmart settlement.

History: 2022, Act 85, Imd. Eff. May 19, 2022 ;-- Am. 2023, Act. 228, Imd. Eff. Nov. 22, 2023

UNIFORM ARBITRATION ACT

Act 371 of 2012

AN ACT to provide for the enforceability of agreements to arbitrate disputes; to provide procedures for the arbitration of disputes; to provide remedies, including remedies for the enforcement of arbitration agreements, rulings, and awards; and to provide immunity from civil liability and testimonial privileges.

History: 2012, Act 371, Eff. July 1, 2013

The People of the State of Michigan enact:

691.1681 Short title; definitions.

Sec. 1.

(1) This act shall be known and may be cited as the "uniform arbitration act".

(2) As used in this act:

(a) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

(b) "Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

(c) "Court" means the circuit court.

(d) "Knowledge" means actual knowledge.

(e) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(f) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

History: 2012, Act 371, Eff. July 1, 2013

691.1682 Notice.

Sec. 2.

(1) Except as otherwise provided in this act, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

(2) A person has notice if the person has knowledge of the notice or has received notice.

(3) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications.

History: 2012, Act 371, Eff. July 1, 2013

691.1683 Agreement to arbitrate; when act applies.

Sec. 3.

(1) On or after July 1, 2013, this act governs an agreement to arbitrate whenever made.

(2) This act does not apply to an arbitration between members of a voluntary membership organization if arbitration is required and administered by the organization. However, a party to such an arbitration may request a court to enter an order confirming an arbitration award and the court may confirm the award or vacate the award for a reason contained in section 23(1)(a), (b), or (d).

History: 2012, Act 371, Eff. July 1, 2013

691.1684 Effect of agreement to arbitrate; nonwaivable provisions.

Sec. 4.

(1) Except as otherwise provided in subsections (2) and (3), a party to an agreement to arbitrate or to an arbitration proceeding may waive or the parties may vary the effect of the requirements of this act to the extent permitted by law.

(2) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not do any of the following:

(a) Waive or agree to vary the effect of the requirements of section 5(1), 6(1), 8, 17(1) or (2), 26, or 28.

(b) Agree to unreasonably restrict the right under section 9 to notice of the initiation of an arbitration proceeding.

(c) Agree to unreasonably restrict the right under section 12 to disclosure of any facts by a neutral arbitrator.

(d) Waive the right under section 16 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under this act, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

(3) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or section 3(1) or (3), 7, 14, 18, 20(4) or (5), 22, 23, 24, 25(1) or (2), 29, 30, or 31.

History: 2012, Act 371, Eff. July 1, 2013

691.1685 Request for judicial relief.

Sec. 5.

(1) Except as otherwise provided in section 28, a request for judicial relief under this act must be made by motion to the court and heard in the manner provided by court rule for making and hearing motions.

(2) Unless a civil action is already pending between the parties, a complaint regarding the agreement to arbitrate must be filed and served as in other civil actions. Notice of an initial motion under this act may be served with the summons and complaint in the manner provided by court rule for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by court rule for serving motions in pending actions.

History: 2012, Act 371, Eff. July 1, 2013

691.1686 Validity of agreement to arbitrate.

Sec. 6.

(1) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except on a ground that exists at law or in equity for the revocation of a contract.

(2) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(3) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

(4) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to,

an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

History: 2012, Act 371, Eff. July 1, 2013

691.1687 Order to compel or stay arbitration.

Sec. 7.

(1) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate under the agreement, the court shall do both of the following:

(a) If the refusing party does not appear or does not oppose the motion, order the parties to arbitrate.

(b) If the refusing party opposes the motion, proceed summarily to decide the issue and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(2) On motion of a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

(3) If the court finds that there is no enforceable agreement, it shall not order the parties to arbitrate under subsection (1) or (2).

(4) The court shall not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

(5) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court. Otherwise, a motion under this section may be made in any court as provided in section 27.

(6) If a party moves the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

(7) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

History: 2012, Act 371, Eff. July 1, 2013

691.1688 Provisional remedies.

Sec. 8.

(1) Before an arbitrator is appointed and is authorized and able to act, the court, on motion of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(2) After an arbitrator is appointed and is authorized and able to act, both of the following apply:

(a) The arbitrator may issue orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(b) A party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(3) A party does not waive a right of arbitration by making a motion under subsection (1) or (2).

History: 2012, Act 371, Eff. July 1, 2013

691.1689 Initiation of arbitration.

Sec. 9.

(1) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(2) Unless a person objects for lack or insufficiency of notice under section 15(3) not later than the beginning of the arbitration hearing, the person by appearing at the hearing waives any objection to lack of or insufficiency of notice.

History: 2012, Act 371, Eff. July 1, 2013

691.1690 Consolidation of separate arbitration proceedings.

Sec. 10.

(1) Except as otherwise provided in subsection (3), on motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if all of the following apply:

(a) There are separate agreements to arbitrate or separate arbitration proceedings between the same persons or 1 of them is a party to a separate agreement to arbitrate or a separate arbitration proceeding with a third person.

(b) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions.

(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings.

(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

(2) The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

(3) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

History: 2012, Act 371, Eff. July 1, 2013

691.1691 Appointment of arbitrator; service as neutral arbitrator.

Sec. 11.

(1) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or an arbitrator appointed by the agreed method.

(2) An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party shall not serve as an arbitrator required by an agreement to be neutral.

History: 2012, Act 371, Eff. July 1, 2013

691.1692 Disclosure by arbitrator.

Sec. 12.

(1) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including both of the following:

(a) A financial or personal interest in the outcome of the arbitration proceeding.

(b) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness, or another arbitrator.

(2) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.

(3) If an arbitrator discloses a fact required by subsection (1) or (2) to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based on the fact disclosed, the objection may be a ground under section 23(1)(b) for vacating an award made by the arbitrator.

(4) If the arbitrator did not disclose a fact as required by subsection (1) or (2), on timely objection by a party, the court under section 23(1)(b) may vacate an award.

(5) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under section 23(1)(b).

(6) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under section 23(1)(b).

History: 2012, Act 371, Eff. July 1, 2013

691.1693 Action by majority.

Sec. 13.

If there is more than 1 arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under section 15(3).

History: 2012, Act 371, Eff. July 1, 2013

691.1694 Immunity of arbitrator; competency to testify; attorney fees and costs.

Sec. 14.

(1) An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(2) The immunity afforded by this section supplements any immunity under other law.

(3) The failure of an arbitrator to make a disclosure required by section 12 does not cause any loss of immunity under this section.

(4) In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify, and may not be required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection is subject to both of the following:

(a) This subsection does not apply to the extent necessary to determine the claim of an arbitrator, arbitration

organization, or representative of the arbitration organization against a party to the arbitration proceeding.

(b) This subsection does not apply to a hearing on a motion to vacate an award under section 23(1)(b) or (c) if the moving party establishes prima facie that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (4), and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorney fees and other reasonable expenses of litigation.

History: 2012, Act 371, Eff. July 1, 2013

691.1695 Arbitration process.

Sec. 15.

(1) An arbitrator may conduct an arbitration in the manner that the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred on the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.

(2) An arbitrator may decide a request for summary disposition of a claim or particular issue if either of the following applies:

(a) All interested parties agree.

(b) On request of 1 party to the arbitration proceeding if the party gives notice to all other parties to the proceeding and the other parties have a reasonable opportunity to respond.

(3) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than 5 days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. On request of a party to the arbitration proceeding and for good cause shown, or on the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but shall not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy on the evidence produced although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(4) At a hearing under subsection (3), a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

(5) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with section 11 to continue the proceeding and to resolve the controversy.

History: 2012, Act 371, Eff. July 1, 2013

691.1696 Representation by lawyer.

Sec. 16.

A party to an arbitration proceeding may be represented by a lawyer.

History: 2012, Act 371, Eff. July 1, 2013

691.1697 Witnesses; subpoenas; depositions; discovery.

Sec. 17.

(1) An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena shall be served in the manner for service of subpoenas in a civil action and, on motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(2) To make the proceedings fair, expeditious, and cost effective, on request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

(3) An arbitrator may permit or limit discovery as the arbitrator decides appropriate in the circumstances, taking into account the needs or requirements of the parties to the arbitration proceeding and other affected persons, the arbitration agreement, court orders, and the desirability of making the proceeding fair, expeditious, and cost effective.

(4) If an arbitrator permits discovery under subsection (3), the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this state.

(5) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this state.

(6) All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this state.

(7) The court may enforce a subpoena or discovery-related order for the attendance of a witness in this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another state on conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost effective. A subpoena or discovery-related order issued by an arbitrator in another state shall be served in the manner provided by law for service of subpoenas in a civil action in this state and, on motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

History: 2012, Act 371, Eff. July 1, 2013

691.1698 Judicial enforcement of preaward of ruling by arbitrator.

Sec. 18.

If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 19. A prevailing party may move the court for an expedited order to confirm the award under section 22, in which case the court shall summarily decide the motion. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award under section 23 or 24.

History: 2012, Act 371, Eff. July 1, 2013

691.1699 Award.

Sec. 19.

(1) An arbitrator shall make a record of an award. The record shall be signed or otherwise authenticated by any

arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(2) An award must be made within the time specified by the agreement to arbitrate or, if not specified in the agreement, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may extend the time within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

History: 2012, Act 371, Eff. July 1, 2013

691.1700 Modification or correction of award by arbitrator.

Sec. 20.

(1) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award on any of the following grounds:

(a) A ground stated in section 24(1)(a) or (c).

(b) Because the arbitrator has not made a final and definite award on a claim submitted by the parties to the arbitration proceeding.

(c) To clarify the award.

(2) A motion under subsection (1) must be made and notice given to all parties within 20 days after the moving party receives notice of the award.

(3) A party to the arbitration proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.

(4) If a motion to the court is pending under section 22, 23, or 24, the court may submit the claim to the arbitrator to consider whether to modify or correct the award for any of the following grounds:

(a) A ground stated in section 24(1)(a) or (c).

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding.

(c) To clarify the award.

(5) An award modified or corrected under this section is subject to sections 19(1), 22, 23, and 24.

History: 2012, Act 371, Eff. July 1, 2013

691.1701 Remedies; fees and expenses of arbitration proceeding.

Sec. 21.

(1) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(2) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(3) As to all remedies other than those authorized by subsections (1) and (2), an arbitrator may order remedies that the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under section 22 or for vacating an award under section 23.

(4) An arbitrator's expenses and fees, and other expenses, shall be paid as provided in the award.

(5) If an arbitrator awards punitive damages or other exemplary relief under subsection (1), the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief.

History: 2012, Act 371, Eff. July 1, 2013

691.1702 Confirmation of award.

Sec. 22.

After a party to an arbitration proceeding receives notice of an award, the party may move the court for an order confirming the award at which time the court shall issue a confirming order unless the award is modified or corrected under section 20 or 24 or is vacated under section 23.

History: 2012, Act 371, Eff. July 1, 2013

691.1703 Vacating award.

Sec. 23.

(1) On motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if any of the following apply:

(a) The award was procured by corruption, fraud, or other undue means.

(b) There was any of the following:

(i) Evident partiality by an arbitrator appointed as a neutral arbitrator.

(ii) Corruption by an arbitrator.

(iii) Misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding.

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 15, so as to prejudice substantially the rights of a party to the arbitration proceeding.

(d) An arbitrator exceeded the arbitrator's powers.

(e) There was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under section 15(3) not later than the beginning of the arbitration hearing.

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in section 9 so as to prejudice substantially the rights of a party to the arbitration proceeding.

(2) A motion under this section must be filed within 90 days after the moving party receives notice of the award under section 19 or within 90 days after the moving party receives notice of a modified or corrected award under section 20, unless the moving party alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion must be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the moving party.

(3) If the court vacates an award on a ground other than that set forth in subsection (1)(e), it may order a rehearing. If the award is vacated on a ground stated in subsection (1)(a) or (b), the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in subsection (1)(c), (d), or (f), the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator shall render the decision in the rehearing within the same time as that provided in section 19(2) for an award.

(4) If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

History: 2012, Act 371, Eff. July 1, 2013

691.1704 Modification or correction of award.

Sec. 24.

(1) On motion made within 90 days after the moving party receives notice of the award under section 19 or within 90 days after the moving party receives notice of a modified or corrected award under section 20, the court shall modify or correct the award if any of the following apply:

(a) There was an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property referred to in the award.

(b) The arbitrator has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision on the claims submitted.

(c) The award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted.

(2) If a motion made under subsection (1) is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending, the court shall confirm the award.

(3) A motion to modify or correct an award under this section may be joined with a motion to vacate the award.

History: 2012, Act 371, Eff. July 1, 2013

691.1705 Judgment on award; attorney fees and litigation.

Sec. 25.

(1) On granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment that conforms with the order. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

(2) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

(3) On request of a prevailing party to a contested judicial proceeding under section 22, 23, or 24, the court may add reasonable attorney fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying, or correcting an award.

History: 2012, Act 371, Eff. July 1, 2013

691.1706 Jurisdiction.

Sec. 26.

(1) A court of this state that has jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(2) An agreement to arbitrate that provides for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under this act.

History: 2012, Act 371, Eff. July 1, 2013

691.1707 Venue.

Sec. 27.

A motion under section 5 shall be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent motions shall be made in the court that heard the initial motion unless the court otherwise directs.

History: 2012, Act 371, Eff. July 1, 2013

691.1708 Appeals.

Sec. 28.

(1) An appeal may be taken from any of the following:
(a) An order denying a motion to compel arbitration.
(b) An order granting a motion to stay arbitration.
(c) An order confirming or denying confirmation of an award.
(d) An order modifying or correcting an award.
(e) An order vacating an award without directing a rehearing.
(f) A final judgment entered under this act.
(2) An appeal under this section shall be taken as from an order or a judgment in a civil action.

History: 2012, Act 371, Eff. July 1, 2013

691.1709 Uniformity of application and construction.

Sec. 29.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History: 2012, Act 371, Eff. July 1, 2013

691.1710 Relationship to electronic signatures in global and national commerce act.

Sec. 30.

The provisions of this act that govern the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of such records or signatures conform to the requirements of section 102 of the electronic signatures in global and national commerce act, 15 USC 7002.

History: 2012, Act 371, Eff. July 1, 2013

691.1711 Effective date.

Sec. 31.

This act takes effect on July 1, 2013.

History: 2012, Act 371, Eff. July 1, 2013

691.1713 Savings clause.

Sec. 33.

This act does not affect an action or proceeding commenced or right accrued before this act takes effect.

History: 2012, Act 371, Eff. July 1, 2013

TRAMPOLINE COURT SAFETY ACT

Act 11 of 2014

AN ACT to enact the trampoline court safety act; to prescribe the duties and liabilities of trampoline court operators and persons who use trampoline courts; and to provide for the acceptance of certain risks by persons who use trampoline courts.

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

The People of the State of Michigan enact:

691.1731 Short title.

Sec. 1.

This act shall be known and may be cited as the "trampoline court safety act".

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

691.1732 Definitions.

Sec. 2.

As used in this act:

(a) "Institutional trampoline" means a trampoline court trampoline intended for use in a commercial or institutional facility.

(b) "Operator" means a person that owns or controls or that has operational responsibility for a trampoline court.

(c) "Spectator" means an individual who is present in a trampoline court only for the purpose of observing trampoline court activity, whether recreational or competitive.

(d) "Trampoline court" means a defined area that contains 1 or more institutional trampolines or a series of institutional trampolines, a trampoline court foam pit, or a series of trampoline court foam pits.

(e) "Trampoline court foam pit" means a combination style dismount pit designed with a rebound device, covered with loose impact-absorbing blocks used in a trampoline court intended for use in a commercial or institutional facility.

(f) "Trampoline court trampoline" means a rebound device activated by vertical or lateral jumping used in a trampoline court.

(g) "Trampoliner" means an individual in a trampoline court for the purpose of trampolining.

(h) "Trampolining" means tumbling or jumping in a trampoline court.

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

691.1733 Operator; duties.

Sec. 3.

An operator shall do all of the following:

(a) Post the duties of trampoliners and spectators as prescribed in this act and the duties, obligations, and liabilities of operators as prescribed in this act in conspicuous places.

(b) Comply with the safety standards specified in ASTM F2970 â€“ 13, "Standard Practice for Design, Manufacture, Installation, Operation, Maintenance, Inspection and Major Modification of Trampoline Courts" published in 2013 by the American society for testing and materials.

(c) Maintain the trampoline court according to the safety standards cited in subdivision (b).

(d) Maintain the stability and legibility of all required signs, symbols, and posted notices.

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

691.1734 Operator; additional duties.

Sec. 4.

An operator shall do both of the following:

(a) Deliver instructions concerning trampoline court rules to trampoliners before they participate in the trampoline court. The instructions may be delivered to trampoliners using video, audio, or computer-based programs, a prerecorded spiel, a written document, signage, verbal instruction, or other delivery method approved by the operator.

(b) Convey to trampoliners the substance of the trampoliner responsibility requirements under section 5.

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

691.1735 Trampoliner; duties.

Sec. 5.

While in a trampoline court, a trampoliner shall do all of the following:

(a) Maintain reasonable control of his or her speed and course at all times.

(b) Read and follow all posted signs and warnings.

(c) Avoid bodily contact with other trampoliners or spectators.

(d) Not run on trampolines, over pads, or on platforms.

(e) Refrain from acting in a manner that may cause injury to others.

(f) Not participate in a trampoline court when under the influence of drugs or alcohol.

(g) Properly use all trampoline court safety equipment provided.

(h) Not participate in a trampoline court if he or she has a preexisting medical condition, a bone condition, a circulatory condition, a heart or lung condition, a back or neck condition, high blood pressure, or a history of spine, musculoskeletal, or head injury, if he or she has had recent surgery, or if she may be pregnant.

(i) Remove inappropriate attire, including hard, sharp, or dangerous objects, such as buckles, pens, purses, or badges.

(j) Conform with or meet height, weight, or age restrictions imposed by the operator to use or participate in the trampoline court activity.

(k) Avoid crowding or overloading individual sections of the trampoline court.
(l) Use the trampoline court within his or her own limitations, training, and acquired skills.
(m) Avoid landing on the head or neck. Serious injury, paralysis, or death can occur from that activity.

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

691.1736 Acceptance of dangers.

Sec. 6.

An individual who participates in trampolining accepts the danger that inheres in that activity insofar as the dangers are obvious and necessary. Those dangers include, but are not limited to, injuries that result from collisions with other trampoliners or other spectators, injuries that result from falls, injuries that result from landing on the trampoline, pad, or platform, and injuries that involve objects or artificial structures properly within the intended travel of the trampoliner that are not otherwise attributable to the operator's breach of his or her common law duties.

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

691.1737 Violation; liability.

Sec. 7.

A trampoliner, spectator, or operator who violates this act is liable in a civil action for damages for the portion of the loss or damage that results from the violation.

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

691.1738 Exceptions.

Sec. 8.

This act does not apply to a person that operates a gymnastics club or facility to which all of the following apply:
(a) The majority of the activities at the gymnastics club or facility are gymnastics-based.
(b) The majority of the revenue from the gymnastics club or facility is derived through supervised educational instruction classes or programs in which the student-to-coach or instructor ratio is based on age, skill level, and number of students.
(c) Gymnastics skills and basics are taught at the gymnastics club or facility through programs that use progression-oriented training and by supervised training and classes.

History: 2014, Act 11, Imd. Eff. Feb. 18, 2014

WRONGFUL IMPRISONMENT COMPENSATION ACT

Act 343 of 2016

AN ACT to provide compensation and other relief for individuals wrongfully imprisoned for crimes; to prescribe the powers and duties of certain state and local governmental officers and agencies; to provide remedies; and to make an appropriation.

History: 2016, Act 343, Eff. Mar. 29, 2017 ;-- Am. 2019, Act 10, Imd. Eff. May 10, 2019

The People of the State of Michigan enact:

691.1751 Short title.

Sec. 1.

This act shall be known and may be cited as the "wrongful imprisonment compensation act".

History: 2016, Act 343, Eff. Mar. 29, 2017

691.1752 Definitions.

Sec. 2.

As used in this act:

(a) "Charges" means the criminal complaint filed against the plaintiff by a county prosecutor or the attorney general on behalf of the people of this state that resulted in the conviction and imprisonment of the plaintiff that are the subject of the claim for compensation under this act.

(b) "New evidence" means any evidence that was not presented in the proceedings leading to plaintiff's conviction, including new testimony, expert interpretation, the results of DNA testing, or other test results relating to evidence that was presented in the proceedings leading to plaintiff's conviction. New evidence does not include a recantation by a witness unless there is other evidence to support the recantation or unless the prosecuting attorney for the county in which the plaintiff was convicted or, if the department of attorney general prosecuted the case, the attorney general agrees that the recantation constitutes new evidence without other evidence to support the recantation.

(c) "Plaintiff" means the individual making a claim for compensation under this act. Plaintiff does not include the estate of an individual entitled to make a claim for compensation under this act, the personal representative of the estate, or any heir, devisee, beneficiary, or other person who is entitled under other law to pursue a claim for damages, injury, or death suffered by the individual.

(d) "State correctional facility" means a correctional facility maintained and operated by the department of corrections.

(e) "This state" means the state of Michigan and its political subdivisions, and the agencies, departments, commissions, and courts of this state and its political subdivisions.

History: 2016, Act 343, Eff. Mar. 29, 2017

691.1753 Wrongful conviction and imprisonment; action for compensation against state.

Sec. 3.

An individual convicted under the law of this state and subsequently imprisoned in a state correctional facility for 1 or more crimes that he or she did not commit may bring an action for compensation against this state in the court of claims as allowed by this act.

History: 2016, Act 343, Eff. Mar. 29, 2017

691.1754 Complaint; documentation; verification by plaintiff; service; notice to victim of assaultive crime or serious misdemeanor; discovery.

Sec. 4.

(1) In an action under this act, the plaintiff shall attach to his or her verified complaint documentation that establishes all of the following:

(a) The plaintiff was convicted of 1 or more crimes under the law of this state, was sentenced to a term of imprisonment in a state correctional facility for the crime or crimes, and served at least part of the sentence.

(b) The plaintiff's judgment of conviction was reversed or vacated and either the charges were dismissed or on retrial the plaintiff was found to be not guilty.

(c) New evidence demonstrates that the plaintiff was not the perpetrator of the crime or crimes and was not an accessory or accomplice to the acts that were the basis of the conviction and resulted in a reversal or vacation of the judgment of conviction, dismissal of the charges, finding of not guilty, or gubernatorial pardon.

(2) A complaint filed under this section must be verified by the plaintiff.

(3) A copy of a complaint filed under this section must be served on the attorney general and on the prosecuting attorney for the county in which the plaintiff was convicted. The attorney general and the prosecuting attorney may answer and contest the complaint.

(4) If the plaintiff's conviction was for an assaultive crime or a serious misdemeanor, the prosecuting attorney shall notify the victim of the assaultive crime or serious misdemeanor of the application in the same manner as is required for an application to have a conviction set aside under section 22a or 77a of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.772a and 780.827a. The prosecuting attorney shall give the victim notice under this subsection by first-class mail sent to the victim's last known address. The victim or victim's representative has the right to appear at any proceeding under this act concerning the complaint and to make a written or oral statement.

(5) The plaintiff, the attorney general, and the prosecuting attorney for the county in which the plaintiff was convicted may conduct discovery in an action under this act.

History: 2016, Act 343, Eff. Mar. 29, 2017

691.1755 Judgment in plaintiff's favor; findings; award of compensation; payments; evidence in civil action; acceptance; compromise or settlement of claim; writing; offset; award as subject to income taxes; payment of child support owed by plaintiff; collection of debt by state or local government; setoff or reimbursement for damages; order.

Sec. 5.

(1) In an action under this act, the plaintiff is entitled to judgment in the plaintiff's favor if the plaintiff proves all of the following by clear and convincing evidence:

(a) The plaintiff was convicted of 1 or more crimes under the law of this state, was sentenced to a term of imprisonment in a state correctional facility for the crime or crimes, and served at least part of the sentence.

(b) The plaintiff's judgment of conviction was reversed or vacated and either the charges were dismissed or the plaintiff was determined on retrial to be not guilty. However, the plaintiff is not entitled to compensation under this act if the plaintiff was convicted of another criminal offense arising from the same transaction and either that offense was not dismissed or the plaintiff was convicted of that offense on retrial.

(c) New evidence demonstrates that the plaintiff did not perpetrate the crime and was not an accomplice or accessory to the acts that were the basis of the conviction, results in the reversal or vacation of the charges in the judgment of conviction or a gubernatorial pardon, and results in either dismissal of all of the charges or a finding of not guilty on all of the charges on retrial.

(2) Subject to subsections (4) and (5), if a court finds that a plaintiff was wrongfully convicted and imprisoned, the court shall award compensation as follows:

(a) Fifty thousand dollars for each year from the date the plaintiff was imprisoned until the date the plaintiff was released from prison, regardless of whether the plaintiff was released from imprisonment on parole or because the maximum sentence was served. For incarceration of less than a year in prison, this amount is prorated to 1/365 of $50,000.00 for every day the plaintiff was incarcerated in prison.

(b) Reimbursement of any amount awarded and collected by this state under the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

(c) Reasonable attorney fees incurred in an action under this act. All of the following apply to attorney fees under this act:

(i) The court shall not award attorney fees unless the plaintiff has actually paid the amount awarded to the attorney.

(ii) It is not necessary that the plaintiff pay the attorney fees before an initial award under this act. The court may award attorney fees on a motion brought after the initial award.

(iii) The attorney fees must not exceed 10% of the total amount awarded under subdivisions (a) and (b) or $50,000.00, whichever is less, plus expenses.

(iv) An award of attorney fees under this act may not be deducted from the compensation awarded the plaintiff, and the plaintiff's attorney is not entitled to receive additional fees from the plaintiff.

(3) An award under subsection (2) is not subject to a limit on the amount of damages except as stated in this act.

(4) Compensation may not be awarded under subsection (2) for any time during which the plaintiff was imprisoned under a concurrent or consecutive sentence for another conviction.

(5) Compensation may not be awarded under subsection (2) for any injuries sustained by the plaintiff while imprisoned. The making of a claim or receipt of compensation under this act does not preclude a claim or action for compensation because of injuries sustained by the plaintiff while imprisoned.

(6) In the discretion of the court, the total amount awarded under subsection (2)(a) and (b) may be paid to the plaintiff in a single payment or in multiple payments. If the court orders the compensation to be paid in multiple payments, the initial payment must be 20% of the total amount awarded or more and the remainder of the payments must be made over not more than 10 years.

(7) An award of compensation under this act is not a finding of wrongdoing against anyone. An award of compensation under this act is not admissible in evidence in a civil action that is related to the investigation, prosecution, or conviction that gave rise to the wrongful conviction or imprisonment.

(8) The acceptance by the plaintiff of an award under this act, or of a compromise or settlement of the claim, must be in writing and, unless it is procured by fraud, is final and conclusive on the plaintiff, constitutes a complete release of all claims against this state, and is a complete bar to any action in state court by the plaintiff against this state based on the same subject matter. However, the acceptance by the plaintiff of an award under this act, or of a compromise or settlement of the plaintiff's claim, does not operate as a waiver of, or bar to, any action in federal court against an individual alleged to have been involved in the investigation, prosecution, or conviction that gave rise to the wrongful conviction or imprisonment.

(9) A compensation award under subsection (2) may not be offset by any of the following:

(a) Expenses incurred by this state or any political subdivision of this state, including, but not limited to, expenses incurred to secure the plaintiff's custody or to feed, clothe, or provide medical services for the plaintiff while imprisoned, including expenses required to be collected under the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406. The attorney general is specifically excused from complying with the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

(b) The value of any services awarded to the plaintiff under this section.

(c) The value of any reduction in fees for services awarded to the plaintiff under this act.

(10) An award under subsection (2) is not subject to income taxes.

(11) A compensation award under this act is subject to the payment of child support, including child support arrearages, owed by the plaintiff. The plaintiff remains liable for any child support or arrearage under the office of child support act, 1971 PA 174, MCL 400.231 to 400.240, and the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, except for any child support or arrearage that erroneously accrued while the plaintiff was imprisoned. Child support must be deducted from an award under this act before the plaintiff receives any of the money from the award. This subsection does not affect any ongoing child support obligation of the plaintiff.

(12) This act does not impair or limit the right of a state or local government to collect a debt of a plaintiff from the plaintiff's award of compensation under this act.

(13) An award of compensation under this act is subject to setoff or reimbursement for damages obtained for the wrongful conviction or imprisonment from any other person.

(14) If a court determines that a plaintiff was wrongfully convicted and imprisoned, the court shall enter an order that provides that any record of the arrest, fingerprints, conviction, and sentence of the plaintiff related to the wrongful conviction be expunged from the criminal history record. A document that is the subject of an order entered under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2016, Act 343, Eff. Mar. 29, 2017

691.1756 Wrongful imprisonment compensation fund; report.

Sec. 6.

(1) The wrongful imprisonment compensation fund is created as a separate fund in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the wrongful imprisonment compensation fund.

(3) The state treasurer shall direct the investment of the wrongful imprisonment compensation fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) The department of treasury is the administrator of the wrongful imprisonment compensation fund for auditing purposes.

(5) The state treasurer shall expend money from the wrongful imprisonment compensation fund only for the purpose of paying claims authorized under this act and costs of administration. The state treasurer shall pay money from the fund in amounts and at the times as ordered by the courts under this act.

(6) Money in the wrongful imprisonment compensation fund at the close of the fiscal year must remain in the fund and not lapse to the general fund.

(7) If there is insufficient money in the wrongful imprisonment compensation fund to pay claims as ordered under this act, the state treasurer shall pay claims that are ordered but not paid if money becomes available in the fund, and pay those claims before subsequently ordered claims. The state treasurer shall develop and implement a process to notify the legislature that money in the fund may be insufficient to cover future claims when the state treasurer reasonably believes that within 60 days the money in the fund will be insufficient to pay claims. The process shall, at a minimum, do all of the following:

(a) Identify a specific date by which the money in the fund will become insufficient to pay claims.

(b) Outline a clear process indicating the order in which claims pending with the fund will be paid.

(c) Outline a clear process indicating the order in which claims that were pending with the fund when money became insufficient will be paid, if money subsequently becomes available.

(8) The attorney general shall report quarterly to the house and senate appropriations committees, the house and senate fiscal agencies, and the state budget office all of the following as of the end of the quarter:

(a) All payments made from the wrongful imprisonment compensation fund in the quarter, indicating for each payment whether it is for a new settlement or award or continued payment for a previous settlement or award.

(b) Any settlements that have been reached or awards that have been made for which payments have not been made.

(c) The number of actions in which an order or judgment has been entered denying the claim, and the reasons for each denial.

(d) The number of known claims for compensation under this act for which there are no final settlements or awards, indicating for each claim, if known, the amount claimed and the potential payment.

(e) The balance in the wrongful imprisonment compensation fund.

(9) Any compensation under this act must be paid from the wrongful imprisonment compensation fund and not from any state department's or agency's annual budget or current funding.

History: 2016, Act 343, Eff. Mar. 29, 2017 ;-- Am. 2019, Act 10, Imd. Eff. May 10, 2019
Compiler's Notes: Subsection (10) of Sec. 6, as amended by Act 10 of 2019, was vetoed by the governor on May 9, 2019. Subsection (10) of Sec. 6, as amended by Act 10 of 2019, reads as follows:"(10) There is appropriated to the wrongful imprisonment compensation fund for the fiscal year ending September 30, 2019, $10,000,000.00 from the general fund of this state."

691.1757 Action for compensation; commencement.

Sec. 7.

(1) An action for compensation under this act must be commenced within 3 years after entry of a verdict, order, or judgment as the result of an event described in section 4(1)(b). Any action by this state challenging or appealing a verdict, order, or judgment entered as the result of an event described in section 4(1)(b) tolls the 3-year period.

(2) An individual convicted, imprisoned, and released from custody before March 29, 2017 must commence an action under this act within 18 months after the effective date of the 2020 amendatory act that amended this section.

History: 2016, Act 343, Eff. Mar. 29, 2017 ;-- Am. 2020, Act 43, Imd. Eff. Mar. 3, 2020
Compiler's Notes: Enacting section 1 of Act 43 of 2020 provides:"Enacting section 1. Section 7 of the wrongful imprisonment compensation act, 2016 PA 343, MCL 691.1757, as amended by this amendatory act, applies retroactively to March 29, 2017."

EXTREME RISK PROTECTION ORDER ACT

Act 38 of 2023

AN ACT to provide for the issuance of restraining orders prohibiting certain individuals from possessing or purchasing firearms and ordering the surrender and seizure of a restrained individual's firearms; to provide for the powers and duties of certain state and local governmental officers and entities; to prescribe penalties; and to provide remedies.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

The People of the State of Michigan enact:

691.1801 Short title.

Sec. 1.

This act may be cited as the "extreme risk protection order act".

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1803 Definitions.

Sec. 3.

As used in this act:
(a) "C.J.I.S. policy council act" means the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.
(b) "Dating relationship" means a relationship that consists of frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.
(c) "Extreme risk protection order" means an order issued by a court under section 7.
(d) "Family member" means an individual who is related to the respondent as any of the following:
(i) A parent.
(ii) A son or daughter.
(iii) A sibling.
(iv) A grandparent.
(v) A grandchild.

(vi) An uncle or aunt.

(vii) A first cousin.

(e) "Guardian" means that term as defined in section 1104 of the estates and protected individuals code, 1998 PA 386, MCL 700.1104.

(f) "Health care provider" means any of the following:

(i) A physician, physician's assistant, nurse practitioner, or certified nurse specialist licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a physician, physician's assistant, nurse practitioner, or certified nurse specialist licensed in another state.

(ii) A mental health professional as that term is defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b, or a mental health professional licensed in another state.

(g) "Law enforcement agency" means any of the following:

(i) A sheriff's department.

(ii) The department of state police.

(iii) A police department of a township, village, or incorporated city.

(iv) The public safety department of an institution of higher education created under or described in article VIII of the state constitution of 1963.

(v) The public safety department of a community or junior college.

(vi) The public safety department or office of a private college.

(h) "Law enforcement officer" means a law enforcement officer as that term is defined in section 2 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

(i) "Petitioner" means the individual who requests an extreme risk protection order in an action under section 5.

(j) "Possession or control" includes, but is not limited to, actual possession or constructive possession by which the individual has the right to control the firearm, even though the firearm is in a different location than the individual. Possession or control does not require the individual to own the firearm.

(k) "Respondent" means the individual against whom an extreme risk protection order is requested in an action under section 5.

(l) "Restrained individual" means the individual against whom an extreme risk protection order has been issued and is in effect.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1805 Action for extreme risk protection order; filing; complaint requirements; confidentiality of petitioner; jurisdiction.

Sec. 5.

(1) An individual described in subsection (2) may file an action in the family division of the circuit court requesting the court to enter an extreme risk protection order.

(2) Any of the following may file an action under this section:

(a) The spouse of the respondent.

(b) A former spouse of the respondent.

(c) An individual who has a child in common with the respondent.

(d) An individual who has or has had a dating relationship with the respondent.

(e) An individual who resides or has resided in the same household with the respondent.

(f) A family member.

(g) A guardian of the respondent.

(h) A law enforcement officer.

(i) A health care provider, if filing and maintaining the action does not violate requirements of the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, or physician-patient confidentiality.

(3) An individual who files an action under this section shall do so by filing a summons and complaint on forms approved by the state court administrative office as directed by the supreme court. The complaint must state facts that show that issuance of an extreme risk protection order is necessary because the respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or

another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.

(4) An individual may file an action under this section regardless of whether the respondent owns or possesses a firearm.

(5) If the respondent is 1 of the following individuals, and if the petitioner knows the respondent is 1 of the following individuals, the petitioner shall state that in the complaint:

(a) An individual who is required to carry a pistol as a condition of the individual's employment and is issued a license to carry a concealed pistol.

(b) A police officer licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(c) A sheriff.

(d) A deputy sheriff.

(e) A member of the department of state police.

(f) A local corrections officer.

(g) An employee of the department of corrections.

(h) A federal law enforcement officer who carries a pistol during the normal course of the officer's employment or an officer of the Federal Bureau of Prisons.

(6) If the petitioner knows or believes that the respondent owns or possesses firearms, the petitioner shall state that in the complaint and, to the extent possible, identify the firearms, giving their location and any additional information that would help a law enforcement officer to find the firearms.

(7) In an action under this section, the address of the petitioner must not be disclosed in any pleading or paper or otherwise. The clerk of the court shall maintain the petitioner's address as confidential in the court file. The clerk shall provide notice of hearing to the petitioner, using the confidential address, for any motion filed by the respondent or any hearing otherwise scheduled by the court.

(8) Any of the following is a proper county in which to file an action under this section:

(a) If the respondent is an adult, any county in this state, regardless of the residency or location of any party.

(b) If the respondent is a minor, either the petitioner's or respondent's county of residence.

(c) If the respondent does not reside in this state, in the petitioner's county of residence.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1806 Expedited hearing for extreme risk protection order; notice; change of venue; use of video conferencing technology.

Sec. 6.

(1) The court in which an action is filed under section 5 shall expedite and give priority to a hearing on the issuance of an extreme risk protection order and to any other hearings required under this act.

(2) Except as provided in section 7(2), the respondent must receive notice of a hearing on the issuance of an extreme risk protection order and give the respondent an opportunity to be heard at the hearing.

(3) The court may enter an order to change the venue of an action filed under section 5 for any reason allowed under the Michigan court rules, including, but not limited to, the convenience of the parties and witnesses. The court may consider the location of firearms owned or possessed by the respondent in deciding whether to enter an order under this subsection.

(4) The court may allow proceedings in an action filed under section 5 to be conducted using video conferencing technology or communication equipment as allowed under Michigan court rules and administrative orders.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1807 Issuance of extreme risk protection order; determination; preponderance of evidence; considerations; notice exception; hearing requirement; emergency extreme risk protection order; modification or rescission of order; surrendering of firearm.

Sec. 7.

(1) In an action under section 5, the court shall issue an extreme risk protection order if the court determines by the preponderance of the evidence that the respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive of the expectation. In making its determination under this subsection, the court shall consider all of the following:

(a) Any history of use, attempted use, or threatened use of physical force by the respondent against another individual, or against the respondent, regardless of whether the violence or threat of violence involved a firearm.

(b) Any evidence of the respondent having a serious mental illness or a serious emotional disturbance, as those terms are defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d, that makes the respondent dangerous to other individuals or to the respondent.

(c) Any of the following orders against the respondent, whether previously entered or existing:

(i) An extreme risk protection order.

(ii) A personal protection order under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(iii) A pretrial release order.

(iv) A probation order.

(v) A parole order.

(vi) Any other injunctive order.

(d) Any violation by the respondent of a previous or existing extreme risk protection order.

(e) Any violation by the respondent of a previous or existing personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(f) Any previous conviction of, criminal charges pending against, or previous or pending juvenile delinquency petitions against the respondent for the commission or attempted commission of any of the following offenses:

(i) A misdemeanor violation of section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81.

(ii) A violation of section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i, or a similar offense in another jurisdiction.

(iii) An offense that has assault as an element.

(iv) An offense that has an element including a threat to person or property.

(v) An offense that is a crime committed against the person or property of a spouse or intimate partner, as that term is defined in section 2950k of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950k.

(vi) An offense involving cruelty or abuse of animals.

(vii) A serious misdemeanor, as that term is defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

(g) Any evidence of recent unlawful use of controlled substances by the respondent.

(h) Any recent abuse of alcohol.

(i) Any previous unlawful possession, use, display, or brandishing of a deadly weapon by the respondent.

(j) Any evidence of an acquisition or attempted acquisition within the previous 180 days by the respondent of a deadly weapon or ammunition.

(k) Any additional information the court finds to be reliable, including a statement by the respondent, or relevant information from family and household members concerning the respondent.

(l) Any other facts that the court believes are relevant.

(2) The court in an action under section 5 may issue an extreme risk protection order without written or oral notice to the respondent if the court determines by clear and convincing evidence from specific facts shown by a verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before an extreme risk protection order can be issued. If the petitioner requests the court to issue an extreme risk protection order under this subsection, the court shall make its determination on the request not later than 1 business day.

(3) If a court issues an extreme risk protection order under subsection (2), including an order described in subsection (4), the court shall, if requested by the restrained individual, conduct a hearing on the order under subsection (1) in accordance with Michigan court rules as follows:

(a) Unless subdivision (b) applies, not later than 14 days after the order is served on the restrained individual or after the restrained individual receives actual notice of the order.

(b) If the restrained individual is an individual described in section 5(5), not later than 5 days after the order is

served on the restrained individual or after the restrained individual receives actual notice of the order.

(4) A petitioner who is a law enforcement officer may request an immediate emergency extreme risk protection order under subsection (2) if the officer is responding to a complaint involving the respondent and the respondent can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure the respondent or another individual by possessing a firearm. The law enforcement officer may request an extreme risk protection order under this subsection verbally over the telephone and the judge or magistrate on duty within that jurisdiction may issue the extreme risk protection order. Within 1 business day after an extreme risk protection order is entered under this subsection, the petitioner shall file with the court a sworn written petition detailing the facts and circumstances presented to the court. The issuing court, if other than the circuit court, shall provide a copy of the petition to the circuit court.

(5) An individual restrained under an extreme risk protection order may file a motion to modify or rescind the order at any time and request a hearing under supreme court rules. The restrained individual may file 1 motion to modify or rescind the order during the first 6 months and 1 motion during the second 6 months that the order is in effect under section 9(1)(k), and 1 motion to modify or rescind an extended order during the first 6 months and 1 motion during the second 6 months that the extended order is in effect under section 17 or 19. If the restrained individual files more than 1 motion during a time described in this subsection, the court shall review the motion before a hearing on the motion is held and may summarily dismiss the motion without a response from the petitioner and without a hearing.

(6) At a hearing on a motion under subsection (5), the restrained individual must prove by a preponderance of the evidence that the restrained individual no longer poses a risk to seriously physically injure another individual or the restrained individual by possessing a firearm.

(7) If a court issues or refuses to issue an extreme risk protection order under this section, the court shall immediately state in writing the specific reasons for issuing or refusing to issue the order. If a hearing is held, the court shall also immediately state on the record the specific reasons for issuing or refusing to issue the order.

(8) If a court issues an extreme risk protection order under this section, the court shall also determine whether the respondent must immediately surrender the respondent's firearms or surrender the firearms within a 24-hour period. If the court orders the firearms immediately surrendered, it shall also issue an anticipatory search warrant, subject to and contingent on the failure or refusal of the restrained individual, following the service of the order, to immediately comply with the order and immediately surrender to a law enforcement officer any firearm or concealed pistol license in the individual's possession or control, authorizing a law enforcement agency to search the location or locations where the firearm, or firearms, or concealed pistol license is believed to be and to seize any firearm or concealed pistol license discovered during the search in compliance with 1966 PA 189, MCL 780.651 to 780.659. Unless the petitioner is a law enforcement officer or health care provider, there is a presumption that the respondent will have 24 hours to surrender the firearms.

(9) If a court decides to issue an extreme risk protection order under this section, the court may, in its discretion, allow the restrained individual to surrender any firearms to a licensed firearm dealer on the list prepared under section 18.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1809 Contents of extreme risk protection order; effectiveness and enforceability.

Sec. 9.

(1) If the court determines under section 7 that an extreme risk protection order should be issued, the court shall include all of the following provisions in the order:

(a) That the restrained individual shall not purchase or possess a firearm. That if the individual has been issued a license under section 2 of 1927 PA 372, MCL 28.422, that the individual has not used and that is not yet void, the individual shall not use it and shall surrender it to the law enforcement agency designated under subdivision (g).

(b) That the restrained individual shall not apply for a concealed pistol license and, if the restrained individual has been issued a license to carry a concealed pistol, the license will be suspended or revoked under section 8 of 1927 PA 372, MCL 28.428, once the order is entered into the law enforcement information network and that the individual shall surrender the license as required by section 8 of 1927 PA 372, MCL 28.428.

(c) That the restrained individual shall, within 24 hours or, at the court's discretion, immediately after being

served with the order, surrender any firearms in the individual's possession or control to the law enforcement agency designated under subdivision (g) or, if allowed as ordered by the court, to a licensed firearm dealer on the list prepared under section 18.

(d) If the petitioner has identified any firearms under section 5(6), a specific description of the firearms to be surrendered or seized.

(e) If the order is issued under section 7(2), a statement that, if requested by the restrained individual, a hearing will be held within 14 days or 5 days, as applicable under section 7(3), after the restrained individual is served with or receives actual notice of the order and that the restrained individual may appear at the hearing and request the court to modify or rescind the order.

(f) A statement that the restrained individual may file a motion to modify or rescind the order as allowed under this act and that motion forms and filing instructions are available from the clerk of the court.

(g) A designation of the law enforcement agency that is responsible for forwarding the order to the Federal Bureau of Investigation under section 15(1). The law enforcement agency designated under this subdivision must be an agency within whose jurisdiction the restrained individual resides.

(h) Directions to a local entering authority or the law enforcement agency designated under subdivision (g) to enter the order into the law enforcement information network.

(i) A statement that violation of the order will subject the restrained individual to immediate arrest, the contempt powers of the court, an automatic extension of the order, and criminal penalties, including imprisonment for up to 1 year for an initial violation and up to 5 years for a subsequent violation.

(j) A statement that the restrained individual has a right to seek the advice of an attorney.

(k) An expiration date that is 1 year after the date of issuance.

(l) If the court has ordered the restrained individual to surrender the individual's firearms immediately, a statement that the law enforcement agency designated under subdivision (g) must proceed to seize the restrained individual's firearms after the restrained individual is served with or receives actual notice of the extreme risk protection order, after giving the restrained individual an opportunity to surrender the individual's firearms.

(2) An extreme risk protection order is effective and enforceable immediately after it is issued by the court. The order may be enforced anywhere in this state by a law enforcement agency that receives a true copy of the order, is shown a copy of it, or has verified its existence on the law enforcement information network as provided by the C.J.I.S. policy council act or on an information network maintained by the Federal Bureau of Investigation.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1810 Responsibilities of restrained individual; notification to local law enforcement for failure to comply; compliance hearing; warrants.

Sec. 10.

(1) Not later than 1 business day after the restrained individual has received a copy of the extreme risk protection order, or the restrained individual has actual notice of the order, the restrained individual shall do either of the following:

(a) File with the court that issued the order 1 or more documents or other evidence verifying that all firearms previously in the individual's possession or control were surrendered to or seized by the local law enforcement agency designated under section 9(1)(g) and that any concealed pistol license was surrendered to the county clerk as required by the order and section 8 of 1927 PA 372, MCL 28.428, and verify to the court that at the time of the verification the individual does not have any firearms or a concealed pistol license in the individual's possession or control.

(b) File with the court that issued the order 1 or more documents or other evidence verifying that both of the following are true:

(i) At the time the order was issued, the individual did not have a firearm or a concealed pistol license in the individual's possession or control.

(ii) At the time of the verification, the individual does not have a firearm or a concealed pistol license in the individual's possession or control.

(2) If a restrained individual has not satisfied the requirements of subsection (1)(a) or (b) within 1 business day after the extreme risk protection order was served or the restrained individual received actual notice of the order,

the clerk of the court that issued the order shall inform the local law enforcement agency designated under section 9(1)(g) of that fact.

(3) A local law enforcement agency that receives a notification under subsection (2) shall make a good-faith effort to determine whether there is evidence that the restrained individual has failed to surrender a firearm or concealed pistol license in the restrained individual's possession or control as required.

(4) The court shall schedule a compliance hearing to be held not later than 5 days after an extreme risk protection order is served on the restrained individual or after the restrained individual receives actual notice of the order. If the restrained individual has satisfied the requirements of subsection (1)(a) or (b) before the hearing, the court may cancel the hearing. If the restrained individual has failed to comply with the requirements of subsection (1)(a) or (b) or fails to appear at the compliance hearing, the court shall issue a bench warrant and issue a search warrant under 1966 PA 189, MCL 780.651 to 780.659, to seize any firearms and may hold the restrained individual in contempt.

(5) At any time while an extreme risk protection order is in effect, the prosecuting attorney for the county in which the order was issued or a law enforcement officer may file an affidavit with the court that issued the order alleging that the restrained individual has a firearm or a concealed pistol license in the individual's possession or control. If an affidavit is filed under this subsection, the court shall determine whether probable cause exists to believe that the restrained individual has a firearm or concealed pistol license in the individual's possession or control. If the court finds that probable cause exists, the court may issue an arrest warrant or order a hearing. The court shall also issue a search warrant under 1966 PA 189, MCL 780.651 to 780.659, describing the firearm or firearms or the concealed pistol license believed to be in the restrained individual's possession or control and authorizing a designated law enforcement agency to search the location or locations where the firearm or firearms or concealed pistol license is believed to be and to seize any firearm or concealed pistol license discovered by the search.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1811 Duties of the clerk of the court; notifications.

Sec. 11.

(1) The clerk of a court that issues an extreme risk protection order shall do all of the following immediately after issuance and without requiring a proof of service on the restrained individual:

(a) Provide a true copy of the order to the law enforcement agency designated under section 9(1)(g).

(b) Provide the petitioner with at least 2 true copies of the order.

(c) If the restrained individual is identified in the complaint as an individual described in section 5(5), notify the individual's employer, if known, of the existence of the order. It is the intent of the legislature that the restrained individual's employer work with the restrained individual's union or bargaining representative under this subdivision to avoid the restrained individual losing the individual's employment or compensation and benefits while the extreme risk protection order is in effect.

(d) Notify the department of state police and the clerk of the restrained individual's county of residence of the existence of the order for purposes of performing their duties under 1927 PA 372, MCL 28.421 to 28.435.

(e) Inform the petitioner that the petitioner may take a true copy of the order to the law enforcement agency designated under section 9(1)(g) to be immediately provided to the Federal Bureau of Investigation and, unless a local entering authority is designated under section 9(1)(h), into the law enforcement information network.

(2) The clerk of the court that issued the extreme risk protection order shall immediately notify the law enforcement agency designated under section 9(1)(g) if any of the following occur:

(a) The clerk receives proof that the restrained individual has been served.

(b) The order is rescinded, modified, or extended.

(c) The order expires without being extended.

(3) A local entering authority designated under section 9(1)(h) shall enter the order into the law enforcement information network as provided by the C.J.I.S. policy council act.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1813 Service of extreme risk protection order.

Sec. 13.

(1) Except as provided in subsection (2), an extreme risk protection order must be served on the restrained individual in person, by registered or certified mail, return receipt requested, by delivery to the last known address of the restrained individual, or by any other means allowed under Michigan court rules as decided by the court.

(2) If the court has ordered the immediate surrender of the individual's firearms, the order must be served personally by a law enforcement officer. If the restrained individual has not been served, a law enforcement officer who knows that the order exists may, at any time, serve the restrained individual with a true copy of the order or advise the restrained individual of the existence of the order, the specific conduct enjoined, the penalties for violating the order, and where the restrained individual may obtain a copy of the order.

(3) The individual who serves an extreme risk protection order or the law enforcement officer who gives oral notice of the order shall file proof of service or proof of oral notice with the clerk of the court that issued the order and the petitioner.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1815 Duties of law enforcement agency; seizure of firearm; use of law enforcement information network; notification of Federal Bureau of Investigation; failure to reclaim firearm.

Sec. 15.

(1) A law enforcement agency designated in an extreme risk protection order under section 9(1)(g) that receives a true copy of the order shall immediately and without requiring proof of service do both of the following:

(a) Unless a local entering authority is designated under section 9(1)(h), enter the order into the law enforcement information network as provided by the C.J.I.S. policy council act.

(b) Report the entry of the order to the Criminal Justice Information Services Division of the Federal Bureau of Investigation for purposes of the national crime information center.

(2) A law enforcement agency that receives information under section 11(2) shall enter the information into the law enforcement information network as provided by the C.J.I.S. policy council act and report the information to the Federal Bureau of Investigation as described in subsection (1)(b).

(3) If an extreme risk protection order has not been served on the restrained individual, a law enforcement agency or officer responding to a call alleging a violation of the order shall serve the restrained individual with a true copy of the order or advise the restrained individual of the existence of the order, the specific conduct enjoined, the penalties for violating the order, and where the restrained individual may obtain a copy of the order. Subject to subsection (4), the law enforcement officer shall enforce the order and immediately enter or cause to be entered into the law enforcement information network and reported to the Federal Bureau of Investigation that the restrained individual has actual notice of the order. The law enforcement officer also shall comply with section 13(3).

(4) In the circumstances described in subsection (3), the law enforcement officer shall give the restrained individual an opportunity to comply with the extreme risk protection order before the law enforcement officer makes a custodial arrest for violation of the order. The failure by the restrained individual to comply with the order is grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 and 764.15a.

(5) The law enforcement agency ordered to seize a firearm under this act shall do all of the following:

(a) Seize a firearm identified in an order issued under this act from any place or from any individual who has possession or control of the firearm.

(b) Seize any other firearms discovered that are owned by or in the possession or control of the restrained individual or if allowed under other applicable law.

(6) A law enforcement officer who seizes a firearm under this act shall give a tabulation of firearms seized as is required under section 5 of 1966 PA 189, MCL 780.655, to the individual from whom the firearms were taken. If no individual is present at the time of seizure, the officer shall leave the tabulation in the place where the officer found the firearms that were seized.

(7) The law enforcement agency that seizes a firearm under this act shall retain and store the firearm subject to order of the court that issued the extreme risk protection order under which the firearm was seized. In addition to any other order that the court determines is appropriate, the court shall order that the restrained individual may reclaim the firearm when the extreme risk protection order expires or is terminated, unless the restrained individual is prohibited for another reason from owning or possessing a firearm, or order that the firearm be transferred to a licensed firearm dealer if the restrained individual sells or transfers ownership of the firearm to the dealer. Before allowing the restrained individual to reclaim a firearm under this subsection, and to determine whether the restrained individual is prohibited from owning or possessing a firearm for another reason, the law enforcement agency shall conduct a verification under the law enforcement information network and the national instant criminal background check system in the same manner as required under section 5b(6) of 1927 PA 372, MCL 28.425b.

(8) A law enforcement agency from whom a restrained individual reclaims a firearm under subsection (7) shall enter into the law enforcement information network and notify the Federal Bureau of Investigation that the court has ordered the firearm returned on expiration of the extreme risk protection order.

(9) A law enforcement agency that seizes and stores a firearm under this act is not liable for damage to or a change in condition of the firearm unless the damage or change in condition resulted from a failure to exercise reasonable care in the seizure, transportation, or storage of the firearm.

(10) If a restrained individual fails to reclaim a firearm under subsection (7) within 90 days after the extreme risk protection order expires or is ordered terminated, the law enforcement agency storing the firearm shall do 1 of the following:

(a) Proceed as for a firearm subject to disposal under sections 239 and 239a of the Michigan penal code, 1931 PA 328, MCL 750.239 and 750.239a.

(b) Follow the procedures for property under 1987 PA 273, MCL 434.21 to 434.29.

(11) Subject to subsection (7) or (8), if any individual other than the restrained individual claims title to a firearm seized under this act, the firearm must be returned to the claimant if the court determines that the claimant is the lawful owner.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1817 Issuance of extended extreme risk protection order.

Sec. 17.

The petitioner may move the court to issue, or the court on its own motion may issue, 1 or more extended extreme risk protection orders, each effective for 1 year after the expiration of the preceding order. The court shall only issue an extended order under this section if the preponderance of the evidence shows that the restrained individual can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive of the expectation. The petitioner or the court, as applicable, shall give the restrained individual written notice of a hearing on a motion to extend the order.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1818 List of licensed firearm dealers.

Sec. 18.

Each circuit court shall prepare a list of trusted licensed firearm dealers located in the jurisdiction of the circuit court. In preparing this list, the court may obtain a list of currently licensed firearm dealers in the court's jurisdiction from the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1819 Refusal or failure to comply with extreme risk protection order; making a false statement in complaint; penalties.

Sec. 19.

(1) An individual who refuses or fails to comply with an extreme risk protection order is guilty and subject to penalties as follows, which may be imposed in addition to a penalty imposed for another criminal offense arising from the same conduct:

(a) For a first offense under this subsection, guilty of a felony punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(b) For a second offense under this subsection, guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(c) For a third or subsequent offense under this subsection, guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $20,000.00, or both.

(2) If a court or a jury finds that the restrained individual has refused or failed to comply with an extreme risk protection order, the court that issued the order shall issue an extended extreme risk protection order effective for 1 year after the expiration of the preceding order.

(3) The court may also enforce an extreme risk protection order by charging the restrained individual with contempt of court under chapter 17 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1701 to 600.1745.

(4) A petitioner who knowingly and intentionally makes a false statement to the court in the complaint or in support of the complaint under this act is guilty and subject to penalties as follows:

(a) For a first offense under this subsection, guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second offense under this subsection, guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(c) For a third or subsequent offense under this subsection, guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $20,000.00, or both.

(5) An individual who knowingly places a firearm in the possession of an individual who is restrained under an extreme risk protection order is guilty of a felony punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1820 Effect of act.

Sec. 20.

This act does not do either of the following:

(a) Limit the ability of the petitioner to request relief under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(b) Limit the ability of an individual to file a petition under section 434 of the mental health code, 1974 PA 258, MCL 330.1434.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law

691.1821 Annual report on application of the act.

Sec. 21.

(1) The state court administrative office, acting at the direction of the supreme court, shall prepare an annual report on and relating to the application of this act by the courts.

(2) The report required by this section must contain all of the following:

(a) The number of actions filed for extreme risk protection orders.

(b) The number of requests made for extreme risk protection orders to be issued without notice under section 7(2).

(c) The number of extreme risk protection orders issued and the number denied.

(d) The number of extreme risk protection orders issued without notice under section 7(2) and the number denied.

(e) The number of extreme risk protection orders that are rescinded.

(f) The number of extreme risk protection orders entered without notice under section 7(2) that are rescinded.

(g) The number of extreme risk protection orders that are renewed.

(h) To the extent ascertainable from available state court data, the number of individuals who are restrained under an emergency risk protection order who, within 30 days after entry of the order, are charged with a criminal offense, giving the nature of the criminal offense, whether it was an offense for the violation of the emergency risk protection order, and the disposition or status of the offense.

(i) To the extent ascertainable from available state court data, the number of petitioners who were prosecuted for knowingly and intentionally making a false statement to the court in a complaint or in support of the complaint under this act.

(j) To the extent ascertainable from available state court data, the number of individuals who were prosecuted for knowingly placing a firearm or ammunition in the possession of a restrained individual.

(k) Demographic data regarding the individuals who are petitioners and respondents in actions for extreme risk protection orders.

(3) The state court administrative office, acting under the direction of the supreme court, shall publish a report prepared under this section annually and provide the report to the legislature and the legislative committees with jurisdiction over judicial matters.

(4) The state court administrative office shall make the data used to prepare the report under this section available annually to individuals, including, but not limited to, the Institute for Firearm Injury and other researchers affiliated with institutions of higher education, who are conducting academic or policy research, including, but not limited to, any disproportionate or discriminatory impact of this act on members of protected classes.

History: 2023, Act 38, Eff. Feb. 13, 2024
Popular Name: Red flag law