

**SUBSTITUTE FOR
HOUSE BILL NO. 4508**

A bill to create a program under which volunteers may provide services to organizations in this state to respond to cybersecurity incidents; to provide for protection from liability for personal injury and property damage; to provide for the powers and duties of state governmental officers and agencies; and to create the Michigan cyber civilian corps advisory board and prescribe its powers and duties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "cyber
2 civilian corps act".

3 Sec. 2. As used in this act:

4 (a) "Advisory board" means the Michigan cyber civilian corps

1 advisory board created under section 9.

2 (b) "Chief information officer" means the individual within
3 the department designated by the governor as the chief information
4 officer for this state.

5 (c) "Client" means a municipal, educational, nonprofit, or
6 business organization that has requested and is using the rapid
7 response assistance of the Michigan cyber civilian corps under the
8 direction of the department.

9 (d) "Cybersecurity incident" means an event occurring on or
10 conducted through a computer network that actually or imminently
11 jeopardizes the integrity, confidentiality, or availability of
12 computers, information or communications systems or networks,
13 physical or virtual infrastructure controlled by computers or
14 information systems, or information resident on any of these.
15 Cybersecurity incident includes, but is not limited to, the
16 existence of a vulnerability in an information system, system
17 security procedures, internal controls, or implementation that is
18 subject to exploitation.

19 (e) "Department" means the department of technology,
20 management, and budget.

21 (f) "Michigan cyber civilian corps" means the program
22 established by this act under which civilian volunteers who have
23 expertise in addressing cybersecurity incidents may volunteer at
24 the invitation of the department to provide rapid response
25 assistance to a municipal, educational, nonprofit, or business
26 organization in need of expert assistance during a cybersecurity
27 incident.

1 (g) "Michigan cyber civilian corps volunteer" means an
2 individual who has entered into a volunteer agreement with the
3 department to serve as a volunteer in the Michigan cyber civilian
4 corps.

5 (h) "Volunteer agreement" means the contract entered into
6 between the department and a Michigan cyber civilian corps
7 volunteer under section 4.

8 Sec. 3. The department may appoint individuals to serve as
9 Michigan cyber civilian corps volunteers for the purposes of
10 facilitating the responsibilities of the department as provided in
11 this act.

12 Sec. 4. The department shall enter into a contract with any
13 individual who wishes to accept an invitation by the department to
14 serve as a Michigan cyber civilian corps volunteer. The contract
15 must include, at a minimum, all of the following:

16 (a) A provision acknowledging the confidentiality of
17 information relating to this state, state residents, and clients.

18 (b) A provision protecting from disclosure any confidential
19 information of this state, state residents, or clients acquired by
20 the Michigan cyber civilian corps volunteer through participation
21 in the Michigan cyber civilian corps.

22 (c) A provision requiring the Michigan cyber civilian corps
23 volunteer to avoid conflicts of interest that might arise from a
24 particular deployment.

25 (d) A provision requiring the Michigan cyber civilian corps
26 volunteer to comply with all existing department security policies
27 and procedures regarding information technology resources.

1 (e) A provision requiring the Michigan cyber civilian corps
2 volunteer to consent to background screening considered appropriate
3 by the department under this act, and a section in which the
4 individual gives that consent as described in section 5.

5 (f) A provision requiring the Michigan cyber civilian corps
6 volunteer to attest that he or she meets any standards of expertise
7 that may be established by the department.

8 Sec. 5. (1) When an individual accepts an invitation to serve
9 as a Michigan cyber civilian corps volunteer as described in
10 section 4, the department shall request the department of state
11 police to do both of the following:

12 (a) Conduct a criminal history check on the individual.

13 (b) Conduct a criminal records check through the Federal
14 Bureau of Investigation on the individual.

15 (2) An individual who accepts an invitation to the Michigan
16 cyber civilian corps shall give written consent in the volunteer
17 agreement for the department of state police to conduct the
18 criminal history check and criminal records check required under
19 this section. The department shall require the individual to submit
20 his or her fingerprints to the department of state police and the
21 Federal Bureau of Investigation for the criminal records check.

22 (3) The department shall request a criminal history check and
23 criminal records check under this section on all individuals who
24 wish to participate as Michigan cyber civilian corps volunteers.
25 The department shall make the request on a form and in the manner
26 prescribed by the department of state police.

27 (4) Within a reasonable time after receiving a complete

1 request by the department for a criminal history check and criminal
2 records check on an individual under this section, the department
3 of state police shall conduct the criminal history check and
4 provide a report of the results to the department. The report must
5 contain any criminal history record information on the individual
6 maintained by the department of state police.

7 (5) Within a reasonable time after receiving a proper request
8 by the department for a criminal records check on an individual
9 under this section, the department of state police shall initiate
10 the criminal records check. After receiving the results of the
11 criminal records check from the Federal Bureau of Investigation,
12 the department of state police shall provide a report of the
13 results to the department.

14 (6) The department of state police may charge the department a
15 fee for a criminal history check or a criminal records check
16 required under this section that does not exceed the actual and
17 reasonable cost of conducting the check.

18 Sec. 6. (1) A Michigan cyber civilian corps volunteer is not
19 an agent, employee, or independent contractor of this state for any
20 purpose and has no authority to bind this state with regard to
21 third parties.

22 (2) This state is not liable to a Michigan cyber civilian
23 corps volunteer for personal injury or property damage suffered by
24 the Michigan cyber civilian corps volunteer through participation
25 in the Michigan cyber civilian corps.

26 Sec. 7. (1) Except as otherwise provided in this section, the
27 department and this state are immune from tort liability for acts

1 or omissions by a Michigan cyber civilian corps volunteer under
2 this act.

3 (2) Except as otherwise provided in this section, and without
4 regard to discretionary or ministerial nature of the conduct of a
5 Michigan cyber civilian corps volunteer, each Michigan cyber
6 civilian corps volunteer is immune from tort liability for an
7 injury to a person or damage to property that occurred while
8 deployed and acting on behalf of the department if all of the
9 following are met:

10 (a) The Michigan cyber civilian corps volunteer is acting or
11 reasonably believes that he or she is acting within the scope of
12 his or her authority.

13 (b) The Michigan cyber civilian corps volunteer's conduct does
14 not amount to gross negligence that is the proximate cause of the
15 injury or damage.

16 (c) The Michigan cyber civilian corps volunteer's conduct is
17 not a material breach of the volunteer agreement during that
18 deployment.

19 (3) If a claim is made or a civil action is commenced against
20 a Michigan cyber civilian corps volunteer for injuries to persons
21 or property caused by negligence of a Michigan cyber civilian corps
22 volunteer that occurred while in the course of his or her
23 deployment on behalf of the department and while acting within the
24 scope of his or her authority, the department may pay for, engage,
25 or furnish the services of an attorney to advise the Michigan cyber
26 civilian corps volunteer as to the claim and to appear for and
27 represent the Michigan cyber civilian corps volunteer in the

1 action. The department may compromise, settle, and pay the claim
2 before or after the commencement of a civil action. Whenever a
3 judgment for damages is awarded against a Michigan cyber civilian
4 corps volunteer as a result of a civil action for personal injuries
5 or property damage caused by the Michigan cyber civilian corps
6 volunteer while in the course of his or her deployment and while
7 acting within the scope of his or her authority, the department may
8 indemnify the Michigan cyber civilian corps volunteer or pay,
9 settle, or compromise the judgment.

10 (4) If a criminal action is commenced against a Michigan cyber
11 civilian corps volunteer based upon the conduct of the Michigan
12 cyber civilian corps volunteer in the course of his or her
13 deployment, if the Michigan cyber civilian corps volunteer had a
14 reasonable basis for believing that he or she was acting within the
15 scope of his or her authority at the time of the alleged conduct,
16 the department may pay for, engage, or furnish the services of an
17 attorney to advise the Michigan cyber civilian corps volunteer as
18 to the action, and to appear for and represent the Michigan cyber
19 civilian corps volunteer in the action. A Michigan cyber civilian
20 corps volunteer who has incurred legal expenses for conduct
21 prescribed in this subsection may obtain reimbursement for those
22 expenses under this subsection.

23 (5) This section does not impose liability on this state or
24 the department.

25 (6) As used in this section:

26 (a) "Governmental function" means an activity that is
27 expressly or impliedly mandated or authorized under this act.

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

4 Sec. 8. (1) On the occurrence of a cybersecurity incident that
5 affects a client, the client may request the department to deploy 1
6 or more Michigan cyber civilian corps volunteers to provide rapid
7 response assistance under the direction of the department.

8 (2) The department, in its discretion, may initiate deployment
9 of Michigan cyber civilian corps volunteers upon the occurrence of
10 a cybersecurity incident and the request of a client.

11 (3) Acceptance of a deployment by a Michigan cyber civilian
12 corps volunteer for a particular cybersecurity incident must be
13 made in writing. A Michigan cyber civilian corps volunteer may
14 decline to accept deployment for any reason.

15 (4) To initiate the deployment of a Michigan cyber civilian
16 corps volunteer for a particular cybersecurity incident, the
17 department shall indicate in writing that the Michigan cyber
18 civilian corps volunteer is authorized to provide the assistance. A
19 single writing may initiate the deployment of more than 1 Michigan
20 cyber civilian corps volunteer.

21 (5) The department shall maintain a writing initiating the
22 deployment of a Michigan cyber civilian corps volunteer to provide
23 assistance to a client for 6 years from the time of deployment or
24 for the time required under the department's record retention
25 policies, whichever is longer.

26 (6) The deployment of a Michigan cyber civilian corps
27 volunteer to provide assistance to a client must be for 7 days

1 unless the writing initiating the deployment contains a different
2 period.

3 (7) At the direction of the department, the deployment of a
4 Michigan cyber civilian corps volunteer may be extended in writing
5 in the same manner as the initial deployment.

6 Sec. 9. (1) The Michigan cyber civilian corps advisory board
7 is created as an advisory body within the department.

8 (2) The Michigan cyber civilian corps advisory board is
9 composed of the adjutant general, the director of the department,
10 the director of the department of state police, and the director of
11 the department of talent and economic development or their
12 designees.

13 (3) The Michigan cyber civilian corps advisory board shall
14 review and make recommendations to the department regarding the
15 policies and procedures used by the department in implementing this
16 act.

17 Sec. 10. (1) After consultation with the advisory board, the
18 chief information officer shall do both of the following:

19 (a) Approve the set of tools that the Michigan cyber civilian
20 corps may use in response to a cybersecurity incident.

21 (b) Determine the standards of expertise necessary for an
22 individual to become a member of the Michigan cyber civilian corps.

23 (2) After consultation with the advisory board, the department
24 shall publish guidelines for the operation of the Michigan cyber
25 civilian corps program. At a minimum, the published guidelines must
26 include the following:

27 (a) An explanation of the standard the department will use to

1 determine whether an individual may serve as a Michigan cyber
2 civilian corps volunteer and an explanation of the process by which
3 an individual may become a Michigan cyber civilian corps volunteer.

4 (b) An explanation of the requirements the department will
5 impose for a client to receive the assistance of the Michigan cyber
6 civilian corps and an explanation of the process by which a client
7 may request and receive the assistance of the Michigan cyber
8 civilian corps.

9 (3) The department may enter into contracts with clients as a
10 condition to providing assistance through the Michigan cyber
11 civilian corps.

12 (4) The department may provide appropriate training to
13 individuals who wish to participate in the Michigan cyber civilian
14 corps and to existing Michigan cyber civilian corps volunteers.

15 (5) The department may provide compensation for actual and
16 necessary travel and subsistence expenses incurred by Michigan
17 cyber civilian corps volunteers on a deployment at the discretion
18 of the department.

19 (6) The department may establish a fee schedule for clients
20 that wish to use the assistance of the Michigan cyber civilian
21 corps. The department may recoup expenses through the fees but may
22 not generate a profit.

23 Enacting section 1. This act takes effect 90 days after the
24 date it is enacted into law.