



HOUSE BILL No. 4751

April 27, 1995, Introduced by Reps. Llewellyn, Bush, Hill, Geiger, Hammerstrom, Goschka, McBryde, Voorhees, Bobier, Rhead and Dalman and referred to the Committee on Judiciary and Civil Rights.

A bill to amend section 7 of Act No. 170 of the Public Acts of 1964, entitled as amended

"An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts,"

as amended by Act No. 175 of the Public Acts of 1986, being section 691.1407 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7 of Act No. 170 of the Public Acts of
2 1964, as amended by Act No. 175 of the Public Acts of 1986, being

1 section 691.1407 of the Michigan Compiled Laws, is amended to
2 read as follows:

3 Sec. 7. (1) Except as otherwise provided in this act, all
4 governmental agencies ~~shall be~~ ARE immune from tort liability
5 in all cases ~~wherein~~ IN WHICH the government agency is engaged
6 in the exercise or discharge of a governmental function. Except
7 as otherwise provided in this act, this act shall not be con-
8 strued as modifying or restricting the immunity of the state from
9 tort liability as it existed before July 1, 1965, which immunity
10 is affirmed.

11 (2) Except as otherwise provided in this section, and with-
12 out regard to the discretionary or ministerial nature of the con-
13 duct in question, each officer and employee of a governmental
14 agency; ~~—~~ each volunteer acting on behalf of a governmental
15 agency; ~~—~~ EACH HEALTH CARE WORKER EMPLOYED BY OR ACTING UNDER
16 CONTRACT IN A STATE CORRECTIONAL FACILITY, COUNTY JAIL, OR LOCAL
17 POLICE LOCK-UP; and each member of a board, council, commission,
18 or statutorily created task force of a governmental agency ~~shall~~
19 ~~be~~ IS immune from tort liability for injuries to persons or dam-
20 ages to property caused by the officer, employee, or member while
21 in the course of employment or service or volunteer while acting
22 on behalf of a governmental agency if all of the following are
23 met:

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

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

3 (c) The officer's, employee's, member's, HEALTH CARE
4 WORKER'S, or volunteer's conduct does not amount to gross negli-
5 gence that is the proximate cause of the injury or damage. As
6 used in this subdivision, "gross negligence" means conduct so
7 reckless as to demonstrate a substantial lack of concern for
8 whether an injury results.

9 (3) Subsection (2) ~~shall~~ DOES not ~~be construed as~~
10 ~~altering~~ ALTER the law of intentional torts as it existed ~~prior~~
11 ~~to the effective date of subsection (2)~~ BEFORE JULY 7, 1986.

12 (4) This act does not grant immunity to a governmental
13 agency with respect to the ownership or operation of a hospital
14 or county medical care facility or, EXCEPT FOR HEALTH CARE WORK-
15 ERS DESCRIBED IN SUBSECTION (2), to the agents or employees of
16 such hospital or county medical care facility. As used in this
17 subsection:

18 (a) "County medical care facility" means that term as
19 defined in section 20104 of the public health code, Act No. 368
20 of the Public Acts of 1978, being section 333.20104 of the
21 Michigan Compiled Laws.

22 (b) "Hospital" means a facility offering inpatient, over-
23 night care, and services for observation, diagnosis, and active
24 treatment of an individual with a medical, surgical, obstetric,
25 chronic, or rehabilitative condition requiring the daily direc-
26 tion or supervision of a physician. ~~The~~ HOWEVER, THE term does
27 not include a hospital owned or operated by the department of

1 mental health or a hospital operated by the department of
2 corrections.

3 (5) Judges, legislators, and the elective or highest
4 appointive executive officials of all levels of government are
5 immune from tort liability for injuries to persons or damages to
6 property whenever they are acting within the scope of their judi-
7 cial, legislative, or executive authority.