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## GOVERNMENTAL IMMUNITY

House Bill 5063

Sponsor: Rep. Larry Julian

Committee: Family and Civil Law

Complete to 3-14-00

### A SUMMARY OF HOUSE BILL 5063 AS INTRODUCED 10-27-99

House Bill 5063 would amend the hospital/medical care facility exception to governmental immunity. Under the bill, a governmental agency or an employee or agent of a governmental agency would not have immunity for the provision of medical care that occurred in a hospital or county medical care facility. The term "hospital" would mean any facility that offered inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical condition that requires the daily direction or supervision of a physician. A hospital would not include a mental health facility owned or operated by the Department of Community Health or a health facility operated by the Department of Corrections.

Further, the bill would make an additional change in the language of the act that is described by the Legislative Service Bureau as having no substantive effect, as it essentially implements a decision of the Michigan Supreme Court (*Dedes v Asch*). One of the conditions required for the extension of governmental immunity is that 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" (emphasis added). The bill would change this phrase to refer to conduct that "does not amount to gross negligence that is *a* proximate cause of the injury or damage" (emphasis added). The supreme court has interpreted this phrase as having the latter meaning.

MCL 691.1407

Analyst: W. Flory

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.