



**House
Legislative
Analysis
Section**

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**GRANTING IMMUNITY FOR
CERTAIN MILITARY PERSONNEL**

House Bill 5501

Sponsor: Rep. Randy Richardville

Committee: Veterans Affairs

Complete to 1-8-02

A SUMMARY OF HOUSE BILL 5501 AS INTRODUCED 12-12-01

The bill would amend the Michigan Military Act to expand civil and criminal liability to certain military personnel called into service to respond to acts or threats of terrorism. In addition, the bill would expand the duties of the adjutant general, who serves as the director of the Department of Military and Veterans Affairs (DMVA).

Active Service. The bill would add members of the organized militia in “active service” to several provisions in the act. The act defines “active service” to mean “service, including active state service and special duty required by law, regulation, or pursuant to order of the governor”. Active service also includes continuing service of an active member of the national guard and the defense force in fulfilling his or her commission, appointment, or enlistment.

Vital Resources. The bill would define “vital resource” to mean a public or private building, facility, property, or location that the governor considers necessary to protect the public health, safety, and welfare of the citizens of the state.

Judgement of a Commanding Officer. Under current law, if any portion of the organized militia is called into active state service or the service of the United States, a commanding officer is required to use his or her judgement in apprehending or disbursing a sniper, rioter, a mob, or an unlawful assembly. The bill would add to this provision situations in which the organized militia were called into active service, and in response to an act or threat of terrorism or to safeguard military or other vital resources of the state or the U.S. The bill would also add that a commanding officer would use his or her judgement in apprehending or disbursing a person reasonably believed to have committed a misdemeanor or felony on a state military base, an armory base, an air base, or a vital resource of the state or the U.S.

Immunity from Civil or Criminal Liability. Under current law, a member of the organized militia in active state service or in service of the U.S. is not liable civilly or criminally for an act committed by him or her in the performance of his or her duty. The bill would specify, in addition, that the immunity would apply to a member of the organized militia in “active service”.

In addition, current law states that a member of the organized militia in active state service or in service of the U.S. has the “immunity of a peace officer” if he or she is acting in aid of civil authorities and in the line of duty, or if assisting in the prohibition of the importation, sale, delivery, possession, or use of a controlled substance while in the line of duty. The bill would add that a member of the organized militia called for active service would have the immunity of a peace officer, and would specify that the immunity would also apply when a member has been

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ordered by the governor to respond to acts or threats of terrorism or to safeguard military or other vital resources of the state or U.S. while in the line of duty.

Duties of the Adjutant General. The bill would require the adjutant general to develop and implement plans for the defense of state military personnel, lands, installations, and other vital resources. In addition, the adjutant general could promulgate rules limiting access to and from property used for military purposes, if it is necessary for the protection of military personnel, installations, or property, or the state's vital resources, or the public health, safety, and welfare of the citizens of the state.

MCL 32.505 et al.

Analyst: M. Wolf

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