

**SUBSTITUTE FOR
HOUSE BILL NO. 5971**

A bill to amend 1964 PA 170, entitled

"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,"

by amending section 7 (MCL 691.1407), as amended by 2000 PA 318.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) Except as otherwise provided in this act, a
2 governmental agency is immune from tort liability if the
3 governmental agency is engaged in the exercise or discharge of a
4 governmental function. Except as otherwise provided in this act,

1 this act does not modify or restrict the immunity of the state
2 from tort liability as it existed before July 1, 1965, which
3 immunity is affirmed.

4 (2) Except as otherwise provided in this section, and without
5 regard to the discretionary or ministerial nature of the conduct
6 in question, each officer and employee of a governmental agency,
7 each volunteer acting on behalf of a governmental agency, and
8 each member of a board, council, commission, or statutorily
9 created task force of a governmental agency is immune from tort
10 liability for an injury to a person or damage to property caused
11 by the officer, employee, or member while in the course of
12 employment or service or caused by the volunteer while acting on
13 behalf of a governmental agency if all of the following are met:

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

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

19 (c) The officer's, employee's, member's, or volunteer's
20 conduct does not amount to gross negligence that is the proximate
21 cause of the injury or damage. ~~As used in this subdivision,~~
22 ~~"gross negligence" means conduct so reckless as to demonstrate a~~
23 ~~substantial lack of concern for whether an injury results.~~

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

26 (4) ~~Except as provided in section 7a, this~~ **This** act does
27 not grant immunity to a governmental agency or an employee or

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1 agent of a governmental agency with respect to providing medical
2 care or treatment to a patient, except medical care or treatment
3 provided to a patient in a hospital owned or operated by the
4 department of community health or a hospital owned or operated by
5 the department of corrections **and except care or treatment**
6 **provided by an uncompensated tactical operation medical**
7 **assistant.**

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

13 (6) A guardian ad litem is immune from civil liability for an
14 injury to a person or damage to property if he or she is acting
15 within the scope of his or her authority as guardian ad litem.
16 This subsection applies to actions filed before, on, or after May
17 1, 1996.

18 (7) **As used in this section:**

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

22 (b) **"Tactical operation" means [a coordinated, planned action by a**
23 **special operations, weapons, or response team] of a law**
24 **enforcement agency that is either of the following:**

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

27 (ii) **The entry into a building or area to seize evidence[, or to**
28 **arrest an individual for a felony, under the authority of a warrant**

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1 issued by a court.]

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

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

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