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BILL ANALYSIS



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House Bill 5054 (as passed by the House)
Sponsor: Representative Shelley Goodman Taub
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 12-5-05

CONTENT

The bill would amend the governmental immunity Act to extend governmental immunity to care or treatment provided by an uncompensated "search and rescue operation medical assistant". The bill also would revise the definition of "tactical operation" in a provision that grants immunity to an uncompensated tactical operation medical assistant.

Search & Rescue Operation

Under the Act, except as it otherwise provides, and without regard to the discretionary or ministerial nature of the conduct in question, each officer and employee of a governmental agency, each volunteer acting on behalf of a governmental agency, and each member of a board, council, commission, or statutorily created task force of a governmental agency is immune from tort liability for an injury to a person or damage to property caused by the officer, employee, or member while in the course of employment or service or caused by the volunteer while acting on behalf of a governmental agency. That immunity applies if all of the following are met:

- The officer, employee, member, or volunteer is acting or reasonably believes he or she is acting within the scope of his or her authority.
- The governmental agency is engaged in the exercise or discharge of a governmental function.
- 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.

The Act specifies, however, that it does not grant immunity to a governmental agency or an employee or agent of a governmental agency with respect to the provision of medical care or treatment to a patient, except medical care or treatment provided to a patient in a hospital owned or operated by the Department of Community Health or the Department of Corrections and except care or treatment provided by an uncompensated tactical operation medical assistant. The bill would include in that exception care or treatment provided by an uncompensated search and rescue operation medical assistant.

"Search and rescue operation medical assistant" would mean an individual licensed in medicine or osteopathic medicine and surgery or as a registered professional nurse, an emergency medical technician, an emergency medical technician specialist, or a paramedic, acting within the scope of the license, and assisting a governmental agency in a search and rescue operation.

“Search and rescue operation” would mean an action by a governmental agency to search for, rescue, or recover victims of a natural or manmade disaster, accident, or emergency on land or water.

Tactical Operation

Currently, “tactical operation” means a coordinated, planned action by a special operations, weapons, or response team of a law enforcement agency that is either of the following:

- Taken to deal with imminent violence, a riot, an act of terrorism, or a similar civic emergency.
- The entry into a building or area to seize evidence, or to arrest an individual for a felony, under the authority of a warrant issued by a court.

The bill would include in that definition entry into a watercraft, aircraft, land vehicle, or body of water to seize evidence or to arrest a person for a felony. It also would include training for the tactical team.

MCL 691.1407

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government to the extent that it would limit potential future liability.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.