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BILL ANALYSIS

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Senate Bill 1218 (as introduced 3-18-08)
Sponsor: Senator Tom George
Committee: Judiciary

Date Completed: 9-23-08

CONTENT

The bill would amend the governmental immunity Act to extend governmental immunity to an uncompensated physician's assistant who provided care or treatment in a tactical operation or search and 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, and each volunteer acting on behalf of a governmental agency, is immune from tort liability for an injury to a person or damage to property caused by the officer or employee 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, 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, or volunteer's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.

The Act specifies 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 "search and rescue operation medical assistant" or "tactical operation medical assistant".

"Tactical operation medical assistant" means an individual licensed to practice one or more of the following, acting within the scope of the license, and assisting law enforcement officers while they are engaged in a tactical operation:

- Medicine or osteopathic medicine and surgery, or as a registered professional nurse.
- As an emergency medical technician, emergency medical technician specialist, or paramedic.

The bill would refer to an individual licensed to practice medicine or osteopathic medicine and surgery, "including the subfield of physician's assistant".

("Tactical operation" means a coordinated, planned action by a special operations, weapons, or response team of a law enforcement agency that is one 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, area, watercraft, aircraft, land vehicle, or body of water to seize evidence, or to arrest an individual for a felony, under the authority of a warrant issued by a court.
- Training for the team.

"Search and rescue operation medical assistant" means an individual licensed to practice one or more of the occupations listed in the definition of "tactical operation medical assistant", acting within the scope of the license, and assisting a governmental agency in a search and rescue operation. "Search and rescue operation" means 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.)

MCL 691.1407

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government. The extent to which the bill would limit potential liability for physician's assistants is not determinable.

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.