

**SUBSTITUTE FOR
HOUSE BILL NO. 4001**

A bill to regulate and to require certain reports to be filed by persons who receive contributions for purposes of defending elected officials from criminal, civil, and administrative actions; to regulate contributions made for purposes of defending elected officials from criminal, civil, and administrative actions; to prescribe certain powers and duties of the bureau of elections as to legal defense funds; and to prescribe penalties and civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "legal
2 defense fund act".

3 Sec. 3. As used in this act:

4 (a) "Bureau of elections" means the bureau created by 1951 PA

1 65 and continued under MCL 168.32.

2 (b) "Contribution" means a transfer of money, services, or
3 anything of ascertainable monetary value made for the purpose of
4 defending an elected official of this state against a criminal,
5 civil, or administrative action. Contribution does not include a
6 transfer from the elected official or a member of his or her
7 immediate family.

8 (c) "Elected official" means an individual who holds an
9 elective office as that term is defined in section 5 of the
10 Michigan campaign finance act, 1976 PA 388, MCL 169.205.

11 (d) "Financial institution" means a state or nationally
12 chartered bank or a state or federally chartered savings and loan
13 association, savings bank, or credit union whose deposits are
14 insured by an agency of the United States government and that
15 maintains a principal office or branch office located in this state
16 under the laws of this state or the United States.

17 (e) "Immediate family" means a child residing in the elected
18 official's household, the elected official's spouse, or an
19 individual claimed by the elected official or the elected
20 official's spouse as a dependent for federal income tax purposes.

21 (f) "Legal defense fund" means a person who receives a
22 contribution from another person with the intent to use the
23 contribution to defend an elected official of this state against a
24 criminal, civil, or administrative action. A legal defense fund
25 does not include a financial institution that only acts as a
26 depository of contributions for a legal defense fund.

27 (g) "Person" means an individual, partnership, corporation,

1 association, governmental entity, or other legal entity.

2 (h) "Treasurer" means the individual designated as responsible
3 for a legal defense fund's record keeping, report preparation, or
4 report filing.

5 Sec. 5. (1) A legal defense fund shall file a statement of
6 organization with the bureau of elections within 10 days after the
7 legal defense fund first receives a contribution.

8 (2) A statement of organization required by this section shall
9 include all of the following information:

10 (a) The name, street address, and telephone number of the
11 legal defense fund. The name of the legal defense fund shall
12 include the first and last name of the elected official intended to
13 be the beneficiary of the legal defense fund.

14 (b) The name, street address, and telephone number of the
15 individual designated as the treasurer of the legal defense fund.

16 (c) The name and address of each financial institution in
17 which money of the fund is or is intended to be deposited.

18 (d) The full name of and office held by the elected official
19 intended to be the beneficiary of the legal defense fund.

20 (3) If any of the information required in a statement of
21 organization under this section changes, the legal defense fund
22 shall file an amended statement of organization when the next
23 contribution report under section 7 is required to be filed.

24 (4) A legal defense fund that fails to file a statement of
25 organization as required by this section shall pay a late filing
26 fee of \$10.00 for each business day the statement remains unfiled.
27 A late filing fee shall not exceed \$300.00. A legal defense fund

1 that fails to file a statement of organization for more than 30
2 days after the statement is required to be filed is subject to a
3 civil fine of not more than \$1,000.00.

4 (5) When a legal defense fund is dissolved, the fund shall
5 file a statement of dissolution, in the form required by the bureau
6 of elections, with the bureau of elections and shall return any
7 unexpended funds to the contributor of the funds or forward the
8 unexpended funds to the state treasurer for deposit into the
9 general fund of the state or to the state bar foundation for
10 deposit into the access to justice fund.

11 Sec. 7. (1) From the date that a legal defense fund receives
12 its first contribution until the date it files a statement of
13 dissolution under section 5, a legal defense fund shall file
14 contribution reports according to the schedule in subsection (2). A
15 contribution report shall disclose all of the following
16 information:

17 (a) The legal defense fund's name, address, and telephone
18 number and the full name, residential and business addresses, and
19 telephone numbers of the legal defense fund's treasurer.

20 (b) The following information about each person from whom a
21 contribution is received during the covered period:

22 (i) The person's full name.

23 (ii) The person's street address.

24 (iii) The amount contributed.

25 (iv) The date on which each contribution was received.

26 (v) The cumulative amount contributed by that person.

27 (vi) If the person is an individual whose cumulative

1 contributions are more than \$100.00, the person's occupation,
2 employer, and principal place of business.

3 (2) Subject to subsections (3) and (4), a legal defense fund
4 shall file a contribution report on or before each of the following
5 dates covering the period beginning on the day after the closing
6 date of the preceding contribution report and ending on the
7 indicated closing date:

8 (a) January 31, with a closing date of December 31 of the
9 previous year.

10 (b) July 25, with a closing date of July 20.

11 (3) The beginning date of the first contribution report
12 required by this section shall be the date the first contribution
13 is received by the legal defense fund.

14 (4) A legal defense fund shall file a final contribution
15 report with its statement of dissolution under section 5. The final
16 contribution report shall cover the period beginning on the day
17 after the closing date of the preceding contribution report and
18 ending on the last date that the legal defense fund received a
19 contribution.

20 (5) A contribution report required by this section shall
21 include a verification statement, signed by the treasurer for the
22 legal defense fund, stating that he or she used all reasonable
23 diligence in preparing the report and that to his or her knowledge
24 the statement is true and complete.

25 Sec. 9. (1) If a report required by section 7 is filed late,
26 the legal defense fund or the treasurer shall pay a late filing
27 fee. If the legal defense fund has raised \$10,000.00 or less during

1 the previous 2 years, the late filing fee shall be \$25.00 for each
2 business day the report remains unfiled, but not to exceed \$500.00.
3 If the legal defense fund has raised more than \$10,000.00 during
4 the previous 2 years, the late filing fee shall be determined as
5 follows, but shall not exceed \$1,000.00:

6 (a) Twenty-five dollars for each business day the report
7 remains unfiled.

8 (b) An additional \$25.00 for each business day after the first
9 3 business days the report remains unfiled.

10 (c) An additional \$50.00 for each business day after the first
11 10 business days the report remains unfiled.

12 (2) A legal defense fund's treasurer who fails to file 2
13 contribution reports required by section 7, if both of the reports
14 remain unfiled for more than 30 days, is guilty of a misdemeanor
15 punishable by imprisonment for not more than 90 days or a fine of
16 not more than \$1,000.00, or both.

17 (3) A legal defense fund's treasurer who knowingly files an
18 incomplete or inaccurate contribution report is subject to a civil
19 fine of not more than \$1,000.00.

20 Sec. 11. (1) The bureau of elections shall make a statement or
21 report required by section 5 or 7 available for public inspection
22 and reproduction as soon as practicable after receipt, but not
23 later than the third business day following the day of receipt. The
24 manner of making the statement or report available to the public
25 may include displaying the report on the internet.

26 (2) The bureau of elections shall keep a statement or report
27 filed under section 5 or 7 until 5 years after the date of the

1 legal defense fund's dissolution.

2 (3) A late filing fee or civil fine assessed under this act
3 shall be paid to the bureau of elections and used to pay the
4 expenses of administering this act.

5 Sec. 13. (1) A person shall not make or accept an anonymous
6 contribution. An anonymous contribution received by a legal defense
7 fund shall not be deposited into an account the legal defense fund
8 maintains with a financial institution, but shall be given to a
9 person that is exempt from taxation under section 501(c)(3) of the
10 internal revenue code, 26 USC 501. The person receiving the
11 contribution from the legal defense fund shall provide the legal
12 defense fund with a receipt, which shall be retained by the legal
13 defense fund's treasurer.

14 (2) A contribution shall not be made, directly or indirectly,
15 by a person in a name other than the name by which that person is
16 identified for legal purposes.

17 (3) A person who knowingly violates this section is guilty of
18 a misdemeanor punishable as follows:

19 (a) If the person is an individual, by imprisonment for not
20 more than 90 days or a fine of not more than \$1,000.00, or both.

21 (b) If the person is other than an individual, by a fine of
22 not more than \$10,000.00.