



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 39 (Substitute S-1 as reported)
Sponsor: Senator Raymond E. Basham
Committee: Judiciary

CONTENT

The bill would amend the governmental immunity law to extend immunity to a law enforcement officer who was not acting in the course of employment, if the officer were responding to an emergency situation that threatened serious injury or death to another person, and other criteria were met.

Under the law, 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 is immune from tort liability for personal injury or property damage caused by the officer or employee while in the course of employment or service. That immunity applies if all of the following are met:

- The officer or employee 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 or employee's conduct does not amount to gross negligence.

Under the bill, a law enforcement officer who was not acting in the course of employment or service would be immune from tort liability for personal injury or property damage caused by the officer if all of the following applied:

- The officer, in good faith, acted in response to an emergency situation that presented the threat of immediate serious physical injury or death to another individual.
- The officer's acts would be within the scope of his or her authority if he or she were acting in the course of his or her employment or service.
- The officer's acts did not amount to gross negligence or willful and wanton misconduct.

"Law enforcement officer" would mean that term as defined in the Commission on Law Enforcement Standards Act.

MCL 691.1407

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would result in indeterminate savings to the State and local units of government related to potential future liability.

Date Completed: 11-8-10

Fiscal Analyst: Bill Bowerman