

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1240

(As amended December 11, 2012)

A bill to provide protection from civil liability to persons that provide court-appointed social services.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "social services agency liability act".

3 Sec. 3. As used in this act:

4 (a) "Child social welfare program" means a [child welfare
5 residential or home-based program, a program involving foster care
6 coordination including adoption activities, a respite care program, or
7 behavioral health or early education services operating under contract
8 and as an agent for the department of human services.]

9 (b) "Gross negligence" means conduct or a failure to act that
10 is so reckless that it demonstrates a substantial lack of concern

1 for whether an injury will result.

2 (c) "Person" means an individual, partnership, corporation,
3 association, or other legal entity, other than a governmental
4 agency.

5 (d) "Social services agency" means a person, other than an
6 individual, that is licensed by this state to provide child social
7 welfare programs.

8 (e) "Willful misconduct" means conduct or a failure to act
9 that is intended to harm the plaintiff.

10 Sec. 5. (1) Subject to subsections (3) and (4), a social
11 services agency is immune from liability for personal injury or
12 property damage caused by the agency's provision of a child social
13 welfare program.

14 (2) Subject to subsections (3) and (4), a director, member,
15 officer, employee, or agent of a social services agency is immune
16 from liability for personal injury or property damage caused by the
17 director, member, officer, employee, or agent while acting on
18 behalf of the agency in the conduct of a child social welfare
19 program if the director, member, officer, employee, or agent is
20 acting or reasonably believes he or she is acting within the scope
21 of his or her authority.

22 (3) This section does not apply if the conduct that causes
23 personal injury or property damage amounts to gross negligence or
24 is willful misconduct.

25 (4) This section does not apply if the conduct that causes
26 personal injury or property damage is prohibited by law and a
27 violation of the prohibition is punishable by imprisonment.

1 Sec. 7. In a civil action for damages resulting from the
2 conduct of a child social welfare program, there is a presumption
3 that a director, member, officer, employee, or agent of a social
4 services agency was acting within the scope of his or her authority
5 and that the conduct of the director, member, officer, employee, or
6 agent did not amount to gross negligence, was not willful
7 misconduct, and was not punishable by imprisonment.