



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 877 (as introduced 2-27-18)  
Sponsor: Senator Marty Knollenberg  
Committee: Judiciary

Date Completed: 3-2-18

### **CONTENT**

**The bill would amend the governmental immunity law to do the following:**

- Specify that a member, officer, employee, or agent of a governmental agency or a volunteer who engaged in sexual misconduct while employed or acting on behalf of the governmental agency would not be immune under the law from tort liability.**
- Specify that a governmental agency would not be immune from tort liability for sexual misconduct that a member, officer, employee, or agent of the governmental agency engaged in while employed by or acting on behalf of the government agency.**

Generally, under the law, a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function. (Governmental agency" means the State or a political subdivision.)

In addition, each officer and employee of a governmental agency and each volunteer acting on behalf of a governmental agency are immune from tort liability for an injury to a person or damage to property caused by the person while in the course of employment or service or caused by the volunteer while acting on behalf of a governmental agency, if the individual 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, and the individual's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.

Under the bill, a member, officer, employee, or agent of a governmental agency or a volunteer acting on behalf of a governmental agency who engaged in sexual misconduct while in the course of employment or service or while acting on behalf of the governmental agency would not be immune under the law from tort liability.

A governmental agency would not be immune under the law from tort liability for sexual misconduct that a member, officer, employee, or agent of the government agency engaged in during the course of employment or service or while acting on behalf of the government agency.

The bill would apply to conduct that occurred after December 31, 1992.

"Sexual misconduct" would mean conduct described in Section 136, 145a, 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan Penal Code, regardless of whether the conduct resulted in a criminal conviction. (Those sections prohibit the following conduct, respectively: female genital mutilation, contributing to the neglect or delinquency of a minor, accosting or soliciting a minor for immoral purposes, accosting or soliciting a minor for immoral purposes after a prior conviction, child sexually abusive activity, first-, second-, third-, and fourth-degree criminal sexual conduct (CSC), and assault with intent to commit CSC.)

The bill would take effect 90 days after its enactment.

Proposed MCL 691.1407d

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill would have an uncertain, but potentially large impact on the State and local units of government due to an increase in court filings.

As the bill would eliminate governmental immunity for agencies and employees for sexual misconduct from 1993 and beyond, a large number of new case filings could result. If so, additional State and local assistance could be required for administrative costs and salaries. The bills also could result in significant costs to the State and local units for judgments, settlements, and litigation costs.

Fiscal Analyst: Michael Siracuse

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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.