

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4508

A bill to create a program under which volunteers may provide services to organizations in this state to respond to cybersecurity incidents; to provide for protection from liability for personal injury and property damage; to provide for the powers and duties of state governmental officers and agencies; and to create the Michigan cyber civilian corps advisory board and prescribe its powers and duties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "cyber
2 civilian corps act".

3 Sec. 2. As used in this act:

4 (a) "Advisory board" means the Michigan cyber civilian corps
5 advisory board created under section 9.

6 (b) "Chief information officer" means the individual within

1 the department designated by the governor as the chief information
2 officer for this state.

3 (c) "Client" means a municipal, educational, nonprofit, or
4 business organization that has requested and is using the rapid
5 response assistance of the Michigan cyber civilian corps under the
6 direction of the department.

7 (d) "Cybersecurity incident" means an event occurring on or
8 conducted through a computer network that actually or imminently
9 jeopardizes the integrity, confidentiality, or availability of
10 computers, information or communications systems or networks,
11 physical or virtual infrastructure controlled by computers or
12 information systems, or information resident on any of these.
13 Cybersecurity incident includes, but is not limited to, the
14 existence of a vulnerability in an information system, system
15 security procedures, internal controls, or implementation that is
16 subject to exploitation.

17 (e) "Department" means the department of technology,
18 management, and budget.

19 (f) "Michigan cyber civilian corps" means the program
20 established by this act under which civilian volunteers who have
21 expertise in addressing cybersecurity incidents may volunteer at
22 the invitation of the department to provide rapid response
23 assistance to a municipal, educational, nonprofit, or business
24 organization in need of expert assistance during a cybersecurity
25 incident.

26 (g) "Michigan cyber civilian corps volunteer" means an
27 individual who has entered into a volunteer agreement with the

1 department to serve as a volunteer in the Michigan cyber civilian
2 corps.

3 (h) "Volunteer agreement" means the contract entered into
4 between the department and a Michigan cyber civilian corps
5 volunteer under section 4.

6 Sec. 3. The department may appoint individuals to serve as
7 Michigan cyber civilian corps volunteers for the purposes of
8 facilitating the responsibilities of the department as provided in
9 this act.

10 Sec. 4. The department shall enter into a contract with any
11 individual who wishes to accept an invitation by the department to
12 serve as a Michigan cyber civilian corps volunteer. The contract
13 must include, at a minimum, all of the following:

14 (a) A provision acknowledging the confidentiality of
15 information relating to this state, state residents, and clients.

16 (b) A provision protecting from disclosure any confidential
17 information of this state, state residents, or clients acquired by
18 the Michigan cyber civilian corps volunteer through participation
19 in the Michigan cyber civilian corps.

20 (c) A provision requiring the Michigan cyber civilian corps
21 volunteer to avoid conflicts of interest that might arise from a
22 particular deployment.

23 (d) A provision requiring the Michigan cyber civilian corps
24 volunteer to comply with all existing department security policies
25 and procedures regarding information technology resources.

26 (e) A provision requiring the Michigan cyber civilian corps
27 volunteer to consent to background screening considered appropriate

1 by the department under this act, and a section in which the
2 individual gives that consent as described in section 5.

3 (f) A provision requiring the Michigan cyber civilian corps
4 volunteer to attest that he or she meets any standards of expertise
5 that may be established by the department.

6 Sec. 5. (1) When an individual accepts an invitation to serve
7 as a Michigan cyber civilian corps volunteer as described in
8 section 4, the department shall request the department of state
9 police to do both of the following:

10 (a) Conduct a criminal history check on the individual.

11 (b) Conduct a criminal records check through the Federal
12 Bureau of Investigation on the individual.

13 (2) An individual who accepts an invitation to the Michigan
14 cyber civilian corps shall give written consent in the volunteer
15 agreement for the department of state police to conduct the
16 criminal history check and criminal records check required under
17 this section. The department shall require the individual to submit
18 his or her fingerprints to the department of state police and the
19 Federal Bureau of Investigation for the criminal records check.

20 (3) The department shall request a criminal history check and
21 criminal records check under this section on all individuals who
22 wish to participate as Michigan cyber civilian corps volunteers.
23 The department shall make the request on a form and in the manner
24 prescribed by the department of state police.

25 (4) Within a reasonable time after receiving a complete
26 request by the department for a criminal history check and criminal
27 records check on an individual under this section, the department

1 of state police shall conduct the criminal history check and
2 provide a report of the results to the department. The report must
3 indicate that the individual is cleared or not cleared to become a
4 Michigan cyber civilian corps volunteer.

5 (5) Within a reasonable time after receiving a proper request
6 by the department for a criminal records check on an individual
7 under this section, the department of state police shall initiate
8 the criminal records check with the Federal Bureau of
9 Investigation. After receiving the results of the criminal records
10 check from the Federal Bureau of Investigation, the department of
11 state police shall provide a report to the department that
12 indicates that the individual is cleared or not cleared to become a
13 Michigan cyber civilian corps volunteer.

14 (6) If a criminal arrest fingerprint is subsequently submitted
15 to the department of state police and matches against a fingerprint
16 that was submitted pursuant to this act and stored in its automated
17 fingerprint identification system (AFIS) database, the department
18 of state police shall notify the department that the individual is
19 still cleared or is no longer cleared to continue as a Michigan
20 cyber civilian corps volunteer. When the department of state police
21 is able to participate with the Federal Bureau of Investigation
22 automatic notification system, then any subsequent arrest
23 fingerprint submitted to the Federal Bureau of Investigation must
24 also be reviewed by the department of state police. The department
25 of state police shall provide a report to the department that
26 indicates that the individual is still cleared or is no longer
27 cleared to continue as a Michigan cyber civilian corps volunteer.

1 Sec. 6. (1) A Michigan cyber civilian corps volunteer is not
2 an agent, employee, or independent contractor of this state for any
3 purpose and has no authority to bind this state with regard to
4 third parties.

5 (2) This state is not liable to a Michigan cyber civilian
6 corps volunteer for personal injury or property damage suffered by
7 the Michigan cyber civilian corps volunteer through participation
8 in the Michigan cyber civilian corps.

9 Sec. 7. (1) Except as otherwise provided in this section, the
10 department and this state are immune from tort liability for acts
11 or omissions by a Michigan cyber civilian corps volunteer under
12 this act.

13 (2) Except as otherwise provided in this section, and without
14 regard to discretionary or ministerial nature of the conduct of a
15 Michigan cyber civilian corps volunteer, each Michigan cyber
16 civilian corps volunteer is immune from tort liability for an
17 injury to a person or damage to property that occurred while
18 deployed and acting on behalf of the department if all of the
19 following are met:

20 (a) The Michigan cyber civilian corps volunteer is acting or
21 reasonably believes that he or she is acting within the scope of
22 his or her authority.

23 (b) The Michigan cyber civilian corps volunteer's conduct does
24 not amount to gross negligence that is the proximate cause of the
25 injury or damage.

26 (c) The Michigan cyber civilian corps volunteer's conduct is
27 not a material breach of the volunteer agreement during that

1 deployment.

2 (3) If a claim is made or a civil action is commenced against
3 a Michigan cyber civilian corps volunteer for injuries to persons
4 or property caused by negligence of a Michigan cyber civilian corps
5 volunteer that occurred while in the course of his or her
6 deployment on behalf of the department and while acting within the
7 scope of his or her authority, the department may pay for, engage,
8 or furnish the services of an attorney to advise the Michigan cyber
9 civilian corps volunteer as to the claim and to appear for and
10 represent the Michigan cyber civilian corps volunteer in the
11 action. The department may compromise, settle, and pay the claim
12 before or after the commencement of a civil action. Whenever a
13 judgment for damages is awarded against a Michigan cyber civilian
14 corps volunteer as a result of a civil action for personal injuries
15 or property damage caused by the Michigan cyber civilian corps
16 volunteer while in the course of his or her deployment and while
17 acting within the scope of his or her authority, the department may
18 indemnify the Michigan cyber civilian corps volunteer or pay,
19 settle, or compromise the judgment.

20 (4) If a criminal action is commenced against a Michigan cyber
21 civilian corps volunteer based upon the conduct of the Michigan
22 cyber civilian corps volunteer in the course of his or her
23 deployment, if the Michigan cyber civilian corps volunteer had a
24 reasonable basis for believing that he or she was acting within the
25 scope of his or her authority at the time of the alleged conduct,
26 the department may pay for, engage, or furnish the services of an
27 attorney to advise the Michigan cyber civilian corps volunteer as

1 to the action, and to appear for and represent the Michigan cyber
2 civilian corps volunteer in the action. A Michigan cyber civilian
3 corps volunteer who has incurred legal expenses for conduct
4 prescribed in this subsection may obtain reimbursement for those
5 expenses under this subsection.

6 (5) This section does not impose liability on this state or
7 the department.

8 (6) As used in this section, "gross negligence" means conduct
9 so reckless as to demonstrate a substantial lack of concern for
10 whether an injury results.

11 Sec. 8. (1) On the occurrence of a cybersecurity incident that
12 affects a client, the client may request the department to deploy 1
13 or more Michigan cyber civilian corps volunteers to provide rapid
14 response assistance under the direction of the department.

15 (2) The department, in its discretion, may initiate deployment
16 of Michigan cyber civilian corps volunteers upon the occurrence of
17 a cybersecurity incident and the request of a client.

18 (3) Acceptance of a deployment by a Michigan cyber civilian
19 corps volunteer for a particular cybersecurity incident must be
20 made in writing. A Michigan cyber civilian corps volunteer may
21 decline to accept deployment for any reason.

22 (4) To initiate the deployment of a Michigan cyber civilian
23 corps volunteer for a particular cybersecurity incident, the
24 department shall indicate in writing that the Michigan cyber
25 civilian corps volunteer is authorized to provide the assistance. A
26 single writing may initiate the deployment of more than 1 Michigan
27 cyber civilian corps volunteer.

1 (5) The department shall maintain a writing initiating the
2 deployment of a Michigan cyber civilian corps volunteer to provide
3 assistance to a client for 6 years from the time of deployment or
4 for the time required under the department's record retention
5 policies, whichever is longer.

6 (6) The deployment of a Michigan cyber civilian corps
7 volunteer to provide assistance to a client must be for 7 days
8 unless the writing initiating the deployment contains a different
9 period.

10 (7) At the direction of the department, the deployment of a
11 Michigan cyber civilian corps volunteer may be extended in writing
12 in the same manner as the initial deployment.

13 Sec. 9. (1) The Michigan cyber civilian corps advisory board
14 is created as an advisory body within the department.

15 (2) The Michigan cyber civilian corps advisory board is
16 composed of the adjutant general, the director of the department,
17 the director of the department of state police, and the director of
18 the department of talent and economic development or their
19 designees.

20 (3) The Michigan cyber civilian corps advisory board shall
21 review and make recommendations to the department regarding the
22 policies and procedures used by the department in implementing this
23 act.

24 Sec. 10. (1) After consultation with the advisory board, the
25 chief information officer shall do both of the following:

26 (a) Approve the set of tools that the Michigan cyber civilian
27 corps may use in response to a cybersecurity incident.

1 (b) Determine the standards of expertise necessary for an
2 individual to become a member of the Michigan cyber civilian corps.

3 (2) After consultation with the advisory board, the department
4 shall publish guidelines for the operation of the Michigan cyber
5 civilian corps program. At a minimum, the published guidelines must
6 include the following:

7 (a) An explanation of the standard the department will use to
8 determine whether an individual may serve as a Michigan cyber
9 civilian corps volunteer and an explanation of the process by which
10 an individual may become a Michigan cyber civilian corps volunteer.

11 (b) An explanation of the requirements the department will
12 impose for a client to receive the assistance of the Michigan cyber
13 civilian corps and an explanation of the process by which a client
14 may request and receive the assistance of the Michigan cyber
15 civilian corps.

16 (3) The department may enter into contracts with clients as a
17 condition to providing assistance through the Michigan cyber
18 civilian corps.

19 (4) The department may provide appropriate training to
20 individuals who wish to participate in the Michigan cyber civilian
21 corps and to existing Michigan cyber civilian corps volunteers.

22 (5) The department may provide compensation for actual and
23 necessary travel and subsistence expenses incurred by Michigan
24 cyber civilian corps volunteers on a deployment at the discretion
25 of the department.

26 (6) The department may establish a fee schedule for clients
27 that wish to use the assistance of the Michigan cyber civilian

1 corps. The department may recoup expenses through the fees but may
2 not generate a profit.

3 (7) Information voluntarily given to the Michigan cyber
4 command center or obtained under this act that would identify or
5 provide a means of identifying a person that may, as a result of
6 disclosure of the information, become a victim of a cybersecurity
7 incident or that would disclose a person's cybersecurity plans or
8 cybersecurity-related practices, procedures, methods, results,
9 organizational information system infrastructure, hardware, or
10 software is exempt from disclosure under the freedom of information
11 act, 1976 PA 442, MCL 15.231 to 15.246.

12 Enacting section 1. This act takes effect 90 days after the
13 date it is enacted into law.