

SUBSTITUTE FOR
HOUSE BILL NO. 5426

A bill to amend 2017 PA 132, entitled
"Cyber civilian corps act,"
by amending sections 2, 3, 4, 5, 6, and 7 (MCL 18.222, 18.223,
18.224, 18.225, 18.226, and 18.227).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

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

4 (b) "Chief information officer" means the individual within
5 the department designated by the governor as the chief information
6 officer for this state.

7 (c) "Client" means a municipal, educational, nonprofit, or
8 ~~business~~**critical infrastructure** organization that has requested



1 and is using the rapid response assistance of the Michigan cyber
2 civilian corps under the direction of the department.

3 **(d) "Critical infrastructure" means systems and assets,**
4 **whether physical or virtual, so vital to the United States or this**
5 **state that the incapacity or destruction of that system or asset**
6 **would have a debilitating impact on security, economic security,**
7 **public health or safety, or any combination of these as determined**
8 **by the department.**

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

19 **(f) ~~(e)~~—"Department" means the department of technology,**
20 **management, and budget.**

21 **(g) "Michigan cyber civilian corps advisor" or "advisor" means**
22 **an individual who has entered into a volunteer agreement with the**
23 **department to serve as a nondeployable advisor in the Michigan**
24 **cyber civilian corps.**

25 **(h) ~~(f)~~—"Michigan cyber civilian corps" means the program**
26 **established by this act under which civilian volunteers who have**
27 **expertise in addressing cybersecurity incidents may volunteer at**
28 **the invitation of the department to provide rapid response**
29 **assistance to a municipal, educational, nonprofit, or ~~business~~**



1 **critical infrastructure** organization in need of expert assistance
2 during a cybersecurity incident.

3 (i) ~~(g)~~—"Michigan cyber civilian corps volunteer" means an
4 individual who has entered into a volunteer agreement with the
5 department to serve as a **deployable** volunteer in the Michigan cyber
6 civilian corps.

7 (j) ~~(h)~~—"Volunteer agreement" means the contract entered into
8 between the department and a Michigan cyber civilian corps
9 volunteer **or advisor** under section 4.

10 Sec. 3. The department may appoint individuals to serve as
11 Michigan cyber civilian corps volunteers **and Michigan cyber**
12 **civilian corps advisors** for the purposes of facilitating the
13 responsibilities of the department as provided in this act.

14 Sec. 4. The department shall enter into a contract with any
15 individual who wishes to accept an invitation by the department to
16 serve as a Michigan cyber civilian corps volunteer **or Michigan**
17 **cyber civilian corps advisor and meets the qualifying criteria for**
18 **those positions as determined by the advisory board.** The contract
19 must include, at a minimum, all of the following:

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

22 (b) A provision protecting from disclosure any confidential
23 information of this state, state residents, or clients acquired by
24 the Michigan cyber civilian corps volunteer **or advisor** through
25 participation in the Michigan cyber civilian corps.

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

29 (d) A provision requiring the Michigan cyber civilian corps



1 volunteer **or advisor** to comply with all existing department
2 security policies and procedures regarding information technology
3 resources.

4 (e) A provision requiring the Michigan cyber civilian corps
5 volunteer **or advisor** to consent to background screening considered
6 appropriate by the department under this act, and a section in
7 which the individual gives that consent as described in section 5.

8 (f) A provision requiring the Michigan cyber civilian corps
9 volunteer **or advisor** to attest that he or she meets any standards
10 of expertise that may be established by the department.

11 Sec. 5. (1) When an individual accepts an invitation to serve
12 as a Michigan cyber civilian corps volunteer **or advisor** as
13 described in section 4, the department shall request the department
14 of state police to do both of the following:

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

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

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

25 (3) The department shall request a criminal history check and
26 criminal records check under this section on all individuals who
27 wish to participate as Michigan cyber civilian corps volunteers **or**
28 **advisors**. The department shall make the request on a form and in
29 the manner prescribed by the department of state police.



1 (4) Within a reasonable time after receiving a complete
2 request by the department for a criminal history check and criminal
3 records check on an individual under this section, the department
4 of state police shall conduct the criminal history check and
5 provide a report of the results to the department. The report must
6 indicate that the individual is cleared or not cleared to become a
7 Michigan cyber civilian corps volunteer **or advisor**.

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

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



1 cleared to continue as a Michigan cyber civilian corps volunteer **or**
2 **advisor**.

3 (7) If a background check results in previous criminal
4 history, the individual may appeal to the director or his or her
5 designee for nondeployable Michigan cyber civilian corps advisor
6 status.

7 (8) Michigan cyber civilian corps volunteers or advisors may
8 not engage in training until either the background check or appeal
9 regarding the background check process has been completed.

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

14 (2) This state is not liable to a Michigan cyber civilian
15 corps volunteer **or advisor** for personal injury or property damage
16 suffered by the Michigan cyber civilian corps volunteer through
17 participation in the Michigan cyber civilian corps.

18 Sec. 7. (1) Except as otherwise provided in this section, the
19 department and this state are immune from tort liability for acts
20 or omissions by a Michigan cyber civilian corps volunteer **or**
21 **advisor** under this act.

22 (2) Except as otherwise provided in this section, and without
23 regard to discretionary or ministerial nature of the conduct of a
24 Michigan cyber civilian corps volunteer **or advisor**, each Michigan
25 cyber civilian corps volunteer **or advisor** is immune from tort
26 liability for an injury to a person or damage to property that
27 occurred while deployed and acting on behalf of the department if
28 all of the following are met:

29 (a) The Michigan cyber civilian corps volunteer **or advisor** is



1 acting or reasonably believes that he or she is acting within the
2 scope of his or her authority.

3 (b) The Michigan cyber civilian corps volunteer's **or advisor's**
4 conduct does not amount to gross negligence that is the proximate
5 cause of the injury or damage.

6 (c) The Michigan cyber civilian corps volunteer's **or advisor's**
7 conduct is not a material breach of the volunteer agreement during
8 that deployment.

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

29 (4) If a criminal action is commenced against a Michigan cyber



1 civilian corps volunteer **or advisor** based upon the conduct of the
2 Michigan cyber civilian corps volunteer **or advisor** in the course of
3 his or her deployment, if the Michigan cyber civilian corps
4 volunteer **or advisor** had a reasonable basis for believing that he
5 or she was acting within the scope of his or her authority at the
6 time of the alleged conduct, the department may pay for, engage, or
7 furnish the services of an attorney to advise the Michigan cyber
8 civilian corps volunteer **or advisor** as to the action, and to appear
9 for and represent the Michigan cyber civilian corps volunteer **or**
10 **advisor** in the action. A Michigan cyber civilian corps volunteer **or**
11 **advisor** who has incurred legal expenses for conduct prescribed in
12 this subsection may obtain reimbursement for those expenses under
13 this subsection.

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

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

19 Enacting section 1. This amendatory act does not take effect
20 unless House Bill No. 5427 of the 100th Legislature is enacted into
21 law.

