

HOUSE BILL NO. 5426

January 30, 2020, Introduced by Reps. Hall, Schroeder, Webber, VanWoerkom, LaFave and LaGrand and referred to the Committee on Oversight.

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



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~~**critical infrastructure** organization that has requested
5 and is using the rapid response assistance of the Michigan cyber
6 civilian corps under the 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 advisor" or "advisor" means**
20 **an individual who has entered into a volunteer agreement with the**
21 **department to serve as a nondeployable advisor in the Michigan**
22 **cyber civilian corps.**

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



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

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

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

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

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

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

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

27 (d) A provision requiring the Michigan cyber civilian corps
28 volunteer **or advisor** to comply with all existing department
29 security policies and procedures regarding information technology



1 resources.

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

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

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

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

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

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

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

28 (4) Within a reasonable time after receiving a complete
29 request by the department for a criminal history check and criminal



1 records check on an individual under this section, the department
2 of state police shall conduct the criminal history check and
3 provide a report of the results to the department. The report must
4 indicate that the individual is cleared or not cleared to become a
5 Michigan cyber civilian corps volunteer **or advisor**.

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

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



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

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

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

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

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

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

27 (a) The Michigan cyber civilian corps volunteer **or advisor** is
28 acting or reasonably believes that he or she is acting within the
29 scope of his or her authority.



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

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

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

27 (4) If a criminal action is commenced against a Michigan cyber
28 civilian corps volunteer **or advisor** based upon the conduct of the
29 Michigan cyber civilian corps volunteer **or advisor** in the course of



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

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

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

