

GOVERNMENTAL LIABILITY FOR NEGLIGENCE (EXCERPT)
Act 170 of 1964

691.1402 Repairing and maintaining highways; damages for bodily injury or damage to property; liability, procedure, and remedy as to county roads; judgment against state; payment of judgment; liability of municipal corporation; effect of contractual undertaking to perform work on state trunk line highway; limitations on duties of governmental agency; limitation.

Sec. 2. (1) Each governmental agency having jurisdiction over a highway shall maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel. A person who sustains bodily injury or damage to his or her property by reason of failure of a governmental agency to keep a highway under its jurisdiction in reasonable repair and in a condition reasonably safe and fit for travel may recover the damages suffered by him or her from the governmental agency. The liability, procedure, and remedy as to county roads under the jurisdiction of a county road commission shall be as provided in section 21 of chapter IV of 1909 PA 283, MCL 224.21. Except as provided in section 2a, the duty of a governmental agency to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, trailways, crosswalks, or any other installation outside of the improved portion of the highway designed for vehicular travel. A judgment against the state based on a claim arising under this section from acts or omissions of the state transportation department is payable only from restricted funds appropriated to the state transportation department or funds provided by its insurer.

(2) A municipal corporation has no duty to repair or maintain, and is not liable for injuries or damages arising from, a portion of a county or state highway.

(3) If the state transportation department contracts with another governmental agency to perform work on a state trunk line highway, an action brought under this section for tort liability arising out of the performance of that work shall be brought only against the state transportation department under the same circumstances and to the same extent as if the work had been performed by employees of the state transportation department. The state transportation department has the same defenses to the action as it would have had if the work had been performed by its own employees. If an action described in this subsection could have been maintained against the state transportation department, it shall not be maintained against the governmental agency that performed the work for the state transportation department. The governmental agency also has the same defenses that could have been asserted by the state transportation department had the action been brought against the state transportation department.

(4) The contractual undertaking of a governmental agency to maintain a state trunk line highway confers contractual rights only on the state transportation department and does not confer third party beneficiary or other contractual rights in any other person to recover damages to person or property from that governmental agency. This subsection does not relieve the state transportation department of liability it may have, under this section, regarding that highway.

(5) The duty imposed by this section on a governmental agency is limited by sections 81131 and 82124 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81131 and 324.82124.

History: 1964, Act 170, Eff. July 1, 1965;—Am. 1990, Act 278, Imd. Eff. Dec. 11, 1990;—Am. 1996, Act 150, Imd. Eff. Mar. 25, 1996;—Am. 1999, Act 205, Imd. Eff. Dec. 21, 1999;—Am. 2012, Act 50, Imd. Eff. Mar. 13, 2012.

Compiler's note: Enacting section 1 of Act 205 of 1999 provides:

“Enacting section 1. Sections 1 and 2 of 1964 PA 170, MCL 691.1401 and 691.1402, as amended by this amendatory act, and section 2a, as added by this amendatory act, apply only to a cause of action arising on or after the effective date of this amendatory act.”

Popular name: Governmental Immunity Act