



HOUSE BILL No. 5026

September 12, 1995, Introduced by Rep. Jamian and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 1 and 5 of Act No. 170 of the Public Acts of 1964, entitled as amended

"An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts,"

section 1 as amended by Act No. 175 of the Public Acts of 1986, being sections 691.1401 and 691.1405 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 5 of Act No. 170 of the Public
2 Acts of 1964, section 1 as amended by Act No. 175 of the Public
3 Acts of 1986, being sections 691.1401 and 691.1405 of the
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 1. As used in this act:

6 (A) "EMERGENCY OPERATION" AND "EMERGENCY VEHICLE" MEAN THOSE
7 TERMS AS DEFINED IN SECTION 2 OF THE MODEL EMERGENCY VEHICLE
8 OPERATION POLICY ACT.

9 (B) "EMERGENCY VEHICLE OPERATION POLICY" MEANS AN EMERGENCY
10 VEHICLE OPERATION POLICY DEVELOPED OR CERTIFIED PURSUANT TO THE
11 MODEL EMERGENCY VEHICLE OPERATION POLICY ACT.

12 ~~(a) "Municipal corporation" means any city, village, town-~~
13 ~~ship or charter township, or any combination thereof, when acting~~
14 ~~jointly.~~

15 ~~(b) "Political subdivision" means any municipal corporation,~~
16 ~~county, county road commission, township, charter township,~~
17 ~~school district, community college district, port district, or~~
18 ~~metropolitan district, transportation authority, or any combina-~~
19 ~~tion thereof, when acting jointly, and any district or authority~~
20 ~~authorized by law or formed by 1 or more political subdivisions,~~
21 ~~and any agency, department, court, board, or council of a politi-~~
22 ~~cal subdivision.~~

23 ~~(c) "State" means the state of Michigan and its agencies,~~
24 ~~departments, commissions, courts, boards, councils, statutorily~~
25 ~~created task forces, and shall include every public university~~

1 ~~and college of the state, whether established as a constitutional~~
2 ~~corporation or otherwise.~~

3 (C) ~~(d)~~ "Governmental agency" means the state, political
4 subdivisions, and municipal corporations.

5 (D) "GOVERNMENTAL FUNCTION" IS AN ACTIVITY THAT IS EXPRESSLY
6 OR IMPLIEDLY MANDATED OR AUTHORIZED BY CONSTITUTION, STATUTE,
7 LOCAL CHARTER OR ORDINANCE, OR OTHER LAW.

8 (e) "Highway" means every public highway, road, and street
9 ~~which~~ THAT is open for public travel and ~~shall include~~
10 INCLUDES bridges, sidewalks, crosswalks, and culverts on ~~any~~ A
11 highway. ~~The term highway~~ HIGHWAY does not include alleys,
12 trees, and utility poles.

13 (f) ~~"Governmental function" is an activity which is~~
14 ~~expressly or impliedly mandated or authorized by constitution,~~
15 ~~statute, local charter or ordinance, or other law.~~ "MUNICIPAL
16 CORPORATION" MEANS A CITY, VILLAGE, TOWNSHIP, OR CHARTER TOWN-
17 SHIP, OR ANY COMBINATION OF THEM WHEN ACTING JOINTLY.

18 (G) "POLITICAL SUBDIVISION" MEANS A MUNICIPAL CORPORATION,
19 COUNTY, COUNTY ROAD COMMISSION, SCHOOL DISTRICT, COMMUNITY COL-
20 LEGE DISTRICT, PORT DISTRICT, METROPOLITAN DISTRICT, TRANSPORTA-
21 TION AUTHORITY, A DISTRICT OR AUTHORITY AUTHORIZED BY LAW OR
22 FORMED BY 1 OR MORE POLITICAL SUBDIVISIONS, AN AGENCY, DEPART-
23 MENT, COURT, BOARD, OR COUNCIL OF A POLITICAL SUBDIVISION, OR ANY
24 COMBINATION OF THEM WHEN ACTING JOINTLY.

25 (H) "STATE" MEANS THE STATE OF MICHIGAN AND ITS AGENCIES,
26 DEPARTMENTS, COMMISSIONS, COURTS, BOARDS, COUNCILS, AND
27 STATUTORILY CREATED TASK FORCES, AND INCLUDES EVERY PUBLIC

1 UNIVERSITY AND COLLEGE OF THE STATE, WHETHER ESTABLISHED AS A
2 CONSTITUTIONAL CORPORATION OR OTHERWISE.

3 (I) ~~(g)~~ "Volunteer" means an individual who is specifi-
4 cally designated as such and who is acting solely on behalf of a
5 governmental agency.

6 Sec. 5. (1) ~~Governmental agencies shall be~~ EXCEPT AS OTH-
7 ERWISE PROVIDED IN THIS SECTION, A GOVERNMENTAL AGENCY IS liable
8 for bodily injury and property damage resulting from the negli-
9 gent operation by ~~any~~ AN officer, agent, or employee of the
10 governmental agency, of a motor vehicle of which the governmental
11 agency is owner. ~~—~~

12 (2) IF A CAUSE OF ACTION UNDER THIS SECTION INVOLVES AN
13 EMERGENCY VEHICLE AND THE EMERGENCY VEHICLE WAS ENGAGED IN AN
14 EMERGENCY OPERATION AT THE TIME OF THE OCCURRENCE THAT RESULTED
15 IN THE BODILY INJURY OR PROPERTY DAMAGE, THE GOVERNMENTAL
16 AGENCY'S LIABILITY FOR DAMAGES IS LIMITED AS PROVIDED IN
17 SECTION 1484 OF THE REVISED JUDICATURE ACT OF 1961, ACT NO. 236
18 OF THE PUBLIC ACTS OF 1961, BEING SECTION 600.1484 OF THE
19 MICHIGAN COMPILED LAWS.

20 (3) AS USED IN THIS SECTION, "OWNER" MEANS THAT TERM as
21 defined in SECTION 37 OF THE MICHIGAN VEHICLE CODE, Act No. 300
22 of the Public Acts of 1949, ~~as amended,~~ being ~~sections 257.+~~
23 ~~to 257.923~~ SECTION 257.37 of the MICHIGAN Compiled Laws. ~~of~~
24 ~~+948.~~

25 Section 2. This amendatory act shall not take effect unless
26 all of the following bills of the 88th Legislature are enacted
27 into law:

1 (a) Senate Bill No. _____ or House Bill No. 5022
2 (request no. 02189'95).
3 (b) Senate Bill No. _____ or House Bill No. 5023
4 (request no. 02189'95 a).