

SENATE BILL NO. 924

February 24, 1998, Introduced by Senator VAN REGENMORTER
and referred to the Committee on Judiciary.

A bill to amend 1964 PA 170, entitled

"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,"

by amending the title and section 1 (MCL 691.1401), as amended by 1986 PA 175, and by adding section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to ~~make uniform~~ DEFINE AND LIMIT the liability of
3 municipal corporations, political subdivisions, and the state,
4 ~~its~~ THEIR agencies and departments, THEIR officers, employees,
5 and volunteers, ~~thereof,~~ CERTAIN NONPROFIT HUMAN SERVICE
6 ORGANIZATIONS, and members of certain boards, councils, and task
7 forces when engaged in the exercise or discharge of a governmen-
8 tal function, for injuries to property and persons; ~~to define~~
9 ~~and limit this liability;~~ to define and limit the liability of
10 the state when engaged in a proprietary function; to authorize
11 the purchase of liability insurance to protect against loss aris-
12 ing out of this liability; to provide for defending certain
13 claims made against public officers and paying damages sought or
14 awarded against them; to provide for the legal defense of public
15 officers and employees; to provide for reimbursement of public
16 officers and employees for certain legal expenses; and to repeal
17 ~~certain~~ acts and parts of acts.

18 Sec. 1. As used in this act:

19 (A) "GOVERNMENTAL AGENCY" MEANS THIS STATE, POLITICAL SUBDI-
20 VISIONS OF THIS STATE, AND MUNICIPAL CORPORATIONS.

21 (B) "GOVERNMENTAL FUNCTION" IS AN ACTIVITY THAT IS EXPRESSLY
22 OR IMPLIEDLY MANDATED OR AUTHORIZED BY CONSTITUTION, STATUTE,
23 LOCAL CHARTER OR ORDINANCE, OR OTHER LAW.

24 (C) "HIGHWAY" MEANS A PUBLIC HIGHWAY, ROAD, AND STREET THAT
25 IS OPEN FOR PUBLIC TRAVEL AND INCLUDES BRIDGES, SIDEWALKS, CROSS-
26 WALKS, AND CULVERTS ON A HIGHWAY. HIGHWAY DOES NOT INCLUDE
27 ALLEYS, TREES, AND UTILITY POLES.

1 (D) ~~(a)~~ "Municipal corporation" means ~~any~~ A city,
2 village, township or charter township, or ~~any~~ A combination
3 ~~thereof,~~ OF ANY OF THESE when acting jointly.

4 (E) "NONPROFIT HUMAN SERVICE ORGANIZATION" MEANS A NONPROFIT
5 CORPORATION ORGANIZED UNDER THE NONPROFIT CORPORATION ACT, 1982
6 PA 162, MCL 450.2101 TO 450.3192, THAT MEETS ALL OF THE FOLLOWING
7 REQUIREMENTS:

8 (i) IS SOLELY DEDICATED TO THE CARE OF 1 OR MORE OF THE
9 FOLLOWING:

10 (A) DEPENDENT OR INDIGENT MENTALLY, EMOTIONALLY, OR PHYSI-
11 CALLY IMPAIRED INDIVIDUALS.

12 (B) MINORS.

13 (ii) IS LICENSED IN THIS STATE BY THE DEPARTMENT OF CONSUMER
14 AND INDUSTRY SERVICES TO PROVIDE CARE TO THE INDIVIDUALS SET
15 FORTH IN SUBPARAGRAPH (i).

16 (iii) PROVIDES SERVICES TO OR FOR THE INDIVIDUALS SET FORTH
17 IN SUBPARAGRAPH (i) PURSUANT TO A CONTRACT WITH THIS STATE.

18 (F) ~~(b)~~ "Political subdivision" means ~~any~~ A municipal
19 corporation, county, county road commission, township, charter
20 township, school district, community college district, port dis-
21 trict, ~~or~~ metropolitan district, OR transportation authority,
22 or ~~any~~ A combination ~~thereof~~ OF ANY OF THESE, when acting
23 jointly; ~~, and any~~ A district or authority authorized by law or
24 formed by 1 or more political subdivisions; ~~, and any~~ OR AN
25 agency, department, court, board, or council of a political
26 subdivision.

1 (G) ~~(c)~~ "State" means the state of Michigan and its
2 agencies, departments, commissions, courts, boards, councils, AND
3 statutorily created task forces. ~~, and shall include every~~
4 STATE INCLUDES A public university ~~and~~ OR college of the state,
5 whether established as a constitutional corporation or
6 otherwise.

7 ~~(d) "Governmental agency" means the state, political subdi-~~
8 ~~visions, and municipal corporations.~~

9 ~~(e) "Highway" means every public highway, road, and street~~
10 ~~which is open for public travel and shall include bridges, side-~~
11 ~~walks, crosswalks, and culverts on any highway. The term highway~~
12 ~~does not include alleys, 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.~~

16 (H) ~~(g)~~ "Volunteer" means an individual who is specifi-
17 cally designated as ~~such~~ A VOLUNTEER and who is acting solely
18 on behalf of a governmental agency OR A NONPROFIT HUMAN SERVICE
19 ORGANIZATION.

20 SEC. 7A. A NONPROFIT HUMAN SERVICE ORGANIZATION IS IMMUNE
21 FROM TORT LIABILITY FOR ACTS OR OMISSIONS OCCURRING IN THE FUR-
22 THERANCE OF THE NONPROFIT HUMAN SERVICES ORGANIZATION'S CONTRACT
23 WITH THIS STATE TO PROVIDE SERVICES TO THOSE INDIVIDUALS SET
24 FORTH IN SECTION 1(E)(i), EXCEPT IF THE ACT OR OMISSION IS GROSS
25 NEGLIGENCE OR VIOLATES A CRIMINAL LAW OF THIS STATE. AS USED IN
26 THIS SECTION, "GROSS NEGLIGENCE" MEANS CONDUCT SO RECKLESS AS TO

1 DEMONSTRATE A SUBSTANTIAL LACK OF CONCERN FOR WHETHER AN INJURY
2 RESULTS.