

HOUSE BILL No. 5309

November 13, 2003, Introduced by Reps. Bieda, Lipsey, Gleason, Condino, Tobocman, Meisner, Wenke, LaSata, Wojno, Law, Hopgood, Pappageorge, Pumford, Middaugh, Stewart, Hart, Woronchak, Woodward, Jamnick, Murphy, Vagnozzi, Minore, O'Neil, Accavitti, Gielegem, Dennis, Clack, Rivet, Kolb, Paletko, Sak, Adamini, Richardville, Meyer, Brown, Spade, Williams, Byrum, McConico, Nofs, Steil, Hardman, Ward, Gaffney, Palmer, Ruth Johnson, Sheen, Brandenburg, Rocca, Elkins, Howell, Plakas, Smith, Hunter, Sheltroun, Hummel, Drolet, DeRoche, Acciavatti, Voorhees and Anderson and referred to the Committee on Government Operations.

A bill to require certain reports to be filed by persons who receive contributions for purposes of defending elected officials from criminal, civil, and administrative actions; to regulate contributions made for purposes of defending elected officials from criminal, civil, and administrative actions; to prescribe certain powers and duties of the secretary of state; and to prescribe criminal penalties and civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "legal defense fund act".

3 Sec. 3. As used in this act:

4 (a) "Contribution" means a transfer of money, services, or
5 anything of ascertainable monetary value made for the purpose of
6 defending an elected official of this state against a criminal,
7 civil, or administrative action. Contribution does not include a

1 transfer from the elected official or a member of his or her
2 immediate family.

3 (b) "Elected official" means an individual who holds an
4 elected office as that term is defined in section 5 of the
5 Michigan campaign finance act, 1976 PA 388, MCL 169.205.

6 (c) "Financial institution" means a state or nationally
7 chartered bank or a state or federally chartered savings and loan
8 association, savings bank, or credit union whose deposits are
9 insured by an agency of the United States government and that
10 maintains a principal office or branch office located in this
11 state under the laws of this state or the United States.

12 (d) "Immediate family" means a child residing in the elected
13 official's household, the elected official's spouse, or an
14 individual claimed by the elected official or the elected
15 official's spouse as a dependent for federal income tax
16 purposes.

17 (e) "Legal defense fund" means a person who receives a
18 contribution from another person with the intent to use the
19 contribution to defend an elected official of this state against
20 a criminal, civil, or administrative action or to transfer the
21 contribution to another legal defense fund. A legal defense fund
22 does not include a financial institution that only acts as a
23 depository of contributions for a legal defense fund.

24 (f) "Person" means an individual, partnership, corporation,
25 association, governmental entity, or other legal entity.

26 (g) "Treasurer" means the individual designated as
27 responsible for a legal defense fund's record keeping, report

1 preparation, or report filing.

2 Sec. 5. (1) A legal defense fund shall file a statement of
3 organization with the secretary of state within 10 days after the
4 legal defense fund first receives a contribution.

5 (2) A statement of organization required by this section
6 shall include all of the following information:

7 (a) The name, street address, and telephone number of the
8 legal defense fund. The name of the legal defense fund shall
9 include the first and last name of the elected official intended
10 to be the beneficiary of the legal defense fund.

11 (b) The name, street address, and telephone number of the
12 individual designated as the treasurer of the legal defense
13 fund.

14 (c) The name and address of each financial institution in
15 which money of the fund is or is intended to be deposited.

16 (d) The full name of and office held by the elected official
17 intended to be the beneficiary of the legal defense fund.

18 (3) If any of the information required in a statement of
19 organization under this section changes, the legal defense fund
20 shall file an amended statement of organization when the next
21 contribution report under section 7 is required to be filed.

22 (4) A legal defense fund that fails to file a statement of
23 organization as required by this section shall pay a late filing
24 fee of \$10.00 for each business day the statement remains
25 unfiled. A late filing fee shall not exceed \$300.00. A legal
26 defense fund that fails to file a statement of organization for
27 more than 30 days after the statement is required to be filed is

1 subject to a civil fine of not more than \$1,000.00.

2 (5) When a legal defense fund is dissolved, the fund shall
3 file a statement of dissolution, in the form required by the
4 secretary of state, with the secretary of state.

5 Sec. 7. (1) From the date that a legal defense fund
6 receives its first contribution until the date it files a
7 statement of dissolution under section 5, a legal defense fund
8 shall file contribution reports according to the schedule
9 contained in subsection (2). A contribution report shall
10 disclose all of the following information:

11 (a) The legal defense fund's name, address, and telephone
12 number and the full name, residential and business addresses, and
13 telephone numbers of the legal defense fund's treasurer.

14 (b) The following information about each person from whom a
15 contribution is received during the covered period:

16 (i) The person's full name.

17 (ii) The person's street address.

18 (iii) The amount contributed.

19 (iv) The date on which each contribution was received.

20 (v) The cumulative amount contributed by that person.

21 (vi) If the person is an individual whose cumulative
22 contributions are more than \$100.00, the person's occupation,
23 employer, and principal place of business.

24 (2) Subject to subsections (3) and (4), a legal defense fund
25 shall file a contribution report on or before each of the
26 following dates covering the period beginning on the day after
27 the closing date of the preceding contribution report and ending

1 on the indicated closing date:

2 (a) January 31, with a closing date of December 31 of the
3 previous year.

4 (b) July 25, with a closing date of July 20.

5 (3) The beginning date of the first contribution report
6 required by this section shall be the date the first contribution
7 is received by the legal defense fund.

8 (4) A legal defense fund shall file a final contribution
9 report with its statement of dissolution under section 5. The
10 final contribution report shall cover the period beginning on the
11 day after the closing date of the preceding contribution report
12 and ending on the last date that the legal defense fund received
13 a contribution.

14 (5) A contribution report required by this section shall
15 include a verification statement, signed by the treasurer for the
16 legal defense fund, stating that he or she used all reasonable
17 diligence in preparing the report and that to his or her
18 knowledge the statement is true and complete.

19 Sec. 9. (1) If a report required by section 7 is filed
20 late, the legal defense fund or the treasurer shall pay a late
21 filing fee. If the legal defense fund has raised \$10,000.00 or
22 less during the previous 2 years, the late filing fee shall be
23 \$25.00 for each business day the report remains unfiled, but not
24 to exceed \$500.00. If the legal defense fund has raised more
25 than \$10,000.00 during the previous 2 years, the late filing fee
26 shall not exceed \$1,000.00, determined as follows:

27 (a) Twenty-five dollars for each business day the report

1 remains unfiled.

2 (b) An additional \$25.00 for each business day after the
3 first 3 business days the report remains unfiled.

4 (c) An additional \$50.00 for each business day after the
5 first 10 business days the report remains unfiled.

6 (2) A legal defense fund's treasurer who fails to file 2
7 contribution reports required by section 7, if both of the
8 reports remain unfiled for more than 30 days, is guilty of a
9 misdemeanor punishable by a fine of not more than \$1,000.00 or
10 imprisonment for not more than 90 days, or both.

11 (3) A legal defense fund's treasurer who knowingly files an
12 incomplete or inaccurate contribution report is subject to a
13 civil fine of not more than \$1,000.00.

14 Sec. 11. (1) The secretary of state shall make a statement
15 or report required by section 5 or 7 available for public
16 inspection and reproduction as soon as practicable after receipt,
17 but not later than the third business day following the day of
18 receipt. The manner of making the statement or report available
19 to the public may include displaying the report on the internet.

20 (2) The secretary of state shall keep a statement or report
21 filed under section 5 or 7 until 5 years after the date of the
22 legal defense fund's dissolution.

23 (3) A late filing fee or civil fine assessed under this act
24 shall be paid to the secretary of state and used to pay the
25 expenses of administering this act.

26 Sec. 13. (1) A person shall not make or accept an anonymous
27 contribution. An anonymous contribution received by a legal

1 defense fund shall not be deposited into an account the legal
2 defense fund maintains with a financial institution, but shall be
3 given to a person that is exempt from taxation under section
4 501(c)(3) of the internal revenue code of 1986. The person
5 receiving the contribution from the legal defense fund shall
6 provide the legal defense fund with a receipt, which shall be
7 retained by the legal defense fund's treasurer.

8 (2) A contribution shall not be made, directly or indirectly,
9 by a person in a name other than the name by which that person is
10 identified for legal purposes.

11 (3) A person who knowingly violates this section is guilty of
12 a misdemeanor punishable as follows:

13 (a) If the person is an individual, by a fine of not more
14 than \$1,000.00 or imprisonment for not more than 90 days, or
15 both.

16 (b) If the person is other than an individual, by a fine of
17 not more than \$10,000.00.