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Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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House Bill 5063 (Substitute H-7 as passed by the House)  
House Bill 5803 (as passed by the House)  
Sponsor: Representative Larry Julian  
House Committee: Family and Civil Law  
Senate Committee: Health Policy

Date Completed: 9-26-00

## **CONTENT**

**House Bill 5063 (H-7)** would amend the governmental immunity law to revise the exception to immunity that applies to hospitals and hospital employees, by providing for immunity only in regard to a hospital owned by the Department of Community Health or the Department of Corrections. **House Bill 5803** would amend the Public Health Code to provide for the confidentiality of professional review data and records of an institution of higher education with colleges of osteopathic and human medicine. The bills are tie-barred to each other.

### **House Bill 5063 (H-7)**

Under the governmental immunity law, except as otherwise provided, a governmental agency is immune from tort liability if the agency is engaged in the exercise or discharge of a governmental function. In addition, except as otherwise provided, each employee of a governmental agency is immune from tort liability for personal injury or property damage caused by the employee while in the course of employment or service, if specific conditions are met.

The law states that it does not grant immunity to a governmental agency with respect to the ownership or operation of a hospital or county medical care facility or to its agents or employees. "Hospital" means a facility offering inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily direction or supervision of a physician; the term does not include a hospital owned or operated by the Department of Community Health (DCH) or the Department of Corrections (DOC). (In other words, governmental immunity does apply to a hospital owned or operated by the DCH or the DOC, and this particular exception to immunity does not limit the immunity of a governmental agency that does not own or operate a hospital or county medical care facility.) The bill would delete this provision and the definition of "hospital".

The bill provides, instead, that the law would not grant immunity to a governmental agency or an employee or agent of a governmental agency with respect to the provision of medical care or treatment to a patient, except medical care or treatment provided to a patient in a hospital owned or operated by the DCH or the DOC.

Currently, one of the conditions that must be met for a governmental officer or employee to be immune is that the person's conduct does not amount to gross negligence that is "the" proximate cause of the injury or damage. The bill would refer, instead, to gross negligence that is "a" proximate cause of the injury or damage.

The bill states that it would apply only to a cause of action arising on or after the bill's effective date.

### **House Bill 5803**

The Public Health Code provides that the records, data, and knowledge collected for or by individuals or committees assigned a professional review function in a health facility or agency are confidential, are not public records or subject to court subpoena, and may be used only for the purposes provided in Article 17

of the Code (which governs health facilities and agencies). The bill would extend this provision to the records, data, and knowledge collected for or by individuals or committees assigned a professional review function in an institution of higher education in this State that has colleges of osteopathic and human medicine.

MCL 691.1407 (H.B. 5063)  
333.20175 (H.B. 5803)

Legislative Analyst: S. Lowe

### **FISCAL IMPACT**

#### **House Bill 5063 (H-7)**

The bill would have an indeterminate fiscal impact on future liability costs for Michigan State University.

#### **House Bill 5803**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Bowerman  
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.