

Act No. 428
Public Acts of 2004
Approved by the Governor
December 16, 2004
Filed with the Secretary of State
December 17, 2004
EFFECTIVE DATE: December 17, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Reps. Ruth Johnson, Vander Veen, Rocca, Nitz, Shaffer, Garfield, Pappageorge and Taub

ENROLLED HOUSE BILL No. 5971

AN ACT 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, employees, and volunteers and for paying damages sought or awarded against them; to provide for the legal defense of public officers, employees, and volunteers; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal acts and parts of acts," by amending section 7 (MCL 691.1407), as amended by 2000 PA 318.

The People of the State of Michigan enact:

Sec. 7. (1) Except as otherwise provided in this act, a governmental agency is immune from tort liability if the governmental agency is engaged in the exercise or discharge of a governmental function. Except as otherwise provided in this act, this act does not modify or restrict the immunity of the state from tort liability as it existed before July 1, 1965, which immunity is affirmed.

(2) Except as otherwise provided in this section, and without regard to the discretionary or ministerial nature of the conduct in question, each officer and employee of a governmental agency, each volunteer acting on behalf of a governmental agency, and each member of a board, council, commission, or statutorily created task force of a governmental agency is immune from tort liability for an injury to a person or damage to property caused by the officer, employee, or member while in the course of employment or service or caused by the volunteer while acting on behalf of a governmental agency if all of the following are met:

(a) The officer, employee, member, or volunteer is acting or reasonably believes he or she is acting within the scope of his or her authority.

(b) The governmental agency is engaged in the exercise or discharge of a governmental function.

(c) The officer's, employee's, member's, or volunteer's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.

(3) Subsection (2) does not alter the law of intentional torts as it existed before July 7, 1986.

(4) This act does not grant immunity to a governmental agency or an employee or agent of a governmental agency with respect to providing medical care or treatment to a patient, except medical care or treatment provided to a patient in a hospital owned or operated by the department of community health or a hospital owned or operated by the

department of corrections and except care or treatment provided by an uncompensated tactical operation medical assistant.

(5) A judge, a legislator, and the elective or highest appointive executive official of all levels of government are immune from tort liability for injuries to persons or damages to property if he or she is acting within the scope of his or her judicial, legislative, or executive authority.

(6) A guardian ad litem is immune from civil liability for an injury to a person or damage to property if he or she is acting within the scope of his or her authority as guardian ad litem. This subsection applies to actions filed before, on, or after May 1, 1996.

(7) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(b) "Tactical operation" means a coordinated, planned action by a special operations, weapons, or response team of a law enforcement agency that is either of the following:

(i) Taken to deal with imminent violence, a riot, an act of terrorism, or a similar civic emergency.

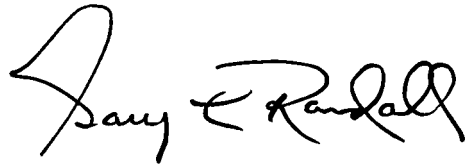
(ii) The entry into a building or area to seize evidence, or to arrest an individual for a felony, under the authority of a warrant issued by a court.

(c) "Tactical operation medical assistant" means an individual licensed to practice 1 or more of the following, acting within the scope of the license, and assisting law enforcement officers while they are engaged in a tactical operation:

(i) Medicine, osteopathic medicine and surgery, or as a registered professional nurse, under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) As an emergency medical technician, emergency medical technician specialist, or paramedic under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor