

SENATE BILL No. 562

October 4, 1989, Introduced by Senators DI NELLO, WELBORN, FAXON, POLLACK and CROPSEY and referred to the Committee on Judiciary.

A bill to amend 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,"

as amended, being sections 691.1401 to 691.1415 of the Michigan Compiled Laws, by adding section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Section 1. Act No. 170 of the Public Acts of 1964, as
2 amended, being sections 691.1401 to 691.1415 of the Michigan

1 Compiled Laws, is amended by adding section 7a to read as
2 follows:

3 SEC. 7A. NOTWITHSTANDING SECTION 7, A GOVERNMENTAL AGENCY
4 IS LIABLE FOR BOTH OF THE FOLLOWING:

5 (A) THE GOVERNMENTAL AGENCY'S ACTS OR OMISSIONS THAT ARE
6 CRUEL OR INHUMANE AND ARE INCONSISTENT WITH THE STATE CONSTITU-
7 TION OF 1963.

8 (B) THE ACTS OR OMISSIONS OF AN EMPLOYEE OF THE GOVERNMENTAL
9 AGENCY, IF THE ACTS OR OMISSIONS ARE OF THE TYPE DESCRIBED IN
10 SUBDIVISION (A) AND IF THE EMPLOYEE IS ACTING IN THE COURSE OF
11 HIS OR HER EMPLOYMENT AND WITHIN THE SCOPE OF HIS OR HER
12 AUTHORITY. IN AN ACTION BROUGHT PURSUANT TO THIS SUBDIVISION,
13 THE DETERMINATION OF WHETHER AN EMPLOYEE IS ACTING IN THE COURSE
14 OF HIS OR HER EMPLOYMENT AND WITHIN THE SCOPE OF HIS OR HER
15 AUTHORITY IS A QUESTION OF FACT.