

HOUSE BILL No. 5937

March 30, 2006, Introduced by Reps. Gaffney, Accavitti, Mortimer, Bieda, Rocca, Schuitmaker, Ward, Gosselin, Marleau, LaJoy, Murphy, Vander Veen, Byrum, Kathleen Law, Wojno, Angerer, Byrnes, Espinoza, McDowell, Taub, Proos, Donigan, Tobocman, Clemente, Huizenga, Stahl and Stewart and referred to the Committee on House Oversight, Elections, and Ethics.

A bill to regulate 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 require certain reports to be filed; to prescribe certain powers and duties of the secretary of state; and to prescribe 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 "legal
2 defense fund act".

3 Sec. 3. As used in this act:

4 (a) "Contribution" means a transfer of money, services, or

1 anything of ascertainable monetary value made for the purpose of
2 defending an elected official of this state against a criminal,
3 civil, or administrative action. Contribution does not include a
4 transfer from the elected official or a member of his or her
5 immediate family.

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

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

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

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

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

1 (g) "Treasurer" means the individual designated as responsible
2 for a legal defense fund's record keeping, report preparation, or
3 report filing.

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

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

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

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

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

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

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

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

1 days after the statement is required to be filed is subject to a
2 civil fine of not more than \$1,000.00.

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

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

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

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

17 (i) The person's full name.

18 (ii) The person's street address.

19 (iii) The amount contributed.

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

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

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

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

1 date of the preceding contribution report and ending on the
2 indicated closing date:

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

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

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

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

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

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

1 (a) Twenty-five dollars for each business day the report
2 remains unfiled.

3 (b) An additional \$25.00 for each business day after the first
4 3 business days the report remains unfiled.

5 (c) An additional \$50.00 for each business day after the first
6 10 business days the report remains unfiled.

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

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

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

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

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

27 Sec. 13. (1) A person shall not intentionally make or accept

1 an anonymous contribution. An anonymous contribution received by a
2 legal defense fund shall not be deposited into an account the legal
3 defense fund maintains with a financial institution, but shall be
4 given to a person that is exempt from taxation under section
5 501(c)(3) of the internal revenue code, 26 USC 501. The person
6 receiving the donation from the legal defense fund shall provide
7 the legal defense fund with a receipt, which shall be retained by
8 the legal defense fund's treasurer.

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

12 (3) A person who violates the prohibitions in this section is
13 guilty of a misdemeanor punishable as follows:

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

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