

Legislative Analysis



SOCIAL SERVICES AGENCY LIABILITY ACT

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5153

Sponsor: Rep. John Walsh

Committee: Judiciary

Complete to 1-25-12

A SUMMARY OF HOUSE BILL 5153 AS INTRODUCED 11-8-11

The bill would create the Social Services Agency Liability Act to provide civil immunity to a social services agency, as well as its employees or directors, for personal injury or property damage caused by the agency's provision of a child social welfare program. The immunity would not apply for conduct amounting to gross negligence or that was willful misconduct.

"Social services agency" would mean a person, other than an individual, that is licensed by the state to provide child social welfare programs. "Person" would mean an individual, partnership, corporation, association, or other legal entity, other than a governmental agency. "Child social welfare program" would mean a court-appointed residential or home-based program for juveniles, a program involving foster care coordination (including adoption activities), or a respite care program.

A director, member, officer, employee, or agent of an agency would also be immune from liability for personal injury or property damage caused by actions while acting on behalf of the agency, if he or she was acting, or reasonably believed he or she was acting, within the scope of his or her authority.

Exemption from immunity

The immunity would not apply if the conduct causing the personal injury or property damage amounts to gross negligence or is willful misconduct. "Gross negligence" would mean conduct or a failure to act that is so reckless that it demonstrates a substantial lack of concern for whether an injury will result. "Willful misconduct" would mean conduct or a failure to act that is intended to harm the plaintiff.

Presumption of acting within scope of practice

The bill would specify that in a civil action for damages resulting from the conduct of a child social welfare program, there would be a presumption that a director, member, officer, employee, or agent of a social services agency was acting within the scope of his or her authority and that the person's conduct did not amount to gross negligence and was not willful misconduct.

FISCAL IMPACT:

House Bill 5153 would result in savings for local courts, as well as potential savings for state-licensed social service agencies. This bill reduces the liability of social services

agencies and individual directors, members, officers, employees, or agents acting on behalf of a social services agency, and thus reduces the number of new civil cases brought against these agencies. Caseload would decrease in the courts where such cases are processed, resulting in some savings. The exact number of civil actions that have been pursued against social service agencies is not known.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Erik Jonasson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.