

HOUSE BILL No. 5153

November 8, 2011, Introduced by Reps. Walsh, Crawford, Haveman, Lyons, Heise, Johnson and O'Brien and referred to the Committee on Judiciary.

A bill to provide protection from civil liability to persons that provide court-appointed social services.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "social services agency liability act".

3 Sec. 3. As used in this act:

4 (a) "Child social welfare program" means a court-appointed
5 residential or home-based program for juveniles, a program
6 involving foster care coordination, including adoption activities,
7 or a respite care program.

8 (b) "Gross negligence" means conduct or a failure to act that
9 is so reckless that it demonstrates a substantial lack of concern
10 for whether an injury will result.

1 (c) "Person" means an individual, partnership, corporation,
2 association, or other legal entity, other than a governmental
3 agency.

4 (d) "Social services agency" means a person, other than an
5 individual, that is licensed by this state to provide child social
6 welfare programs.

7 (e) "Willful misconduct" means conduct or a failure to act
8 that is intended to harm the plaintiff.

9 Sec. 5. (1) Subject to subsection (3), a social services
10 agency is immune from liability for personal injury or property
11 damage caused by the agency's provision of a child social welfare
12 program.

13 (2) Subject to subsection (3), a director, member, officer,
14 employee, or agent of a social services agency is immune from
15 liability for personal injury or property damage caused by the
16 director, member, officer, employee, or agent while acting on
17 behalf of the agency in the conduct of a child social welfare
18 program if the director, member, officer, employee, or agent is
19 acting or reasonably believes he or she is acting within the scope
20 of his or her authority.

21 (3) This section does not apply if the conduct that causes
22 personal injury or property damage amounts to gross negligence or
23 is willful misconduct.

24 Sec. 7. In a civil action for damages resulting from the
25 conduct of a child social welfare program, there is a presumption
26 that a director, member, officer, employee, or agent of a social
27 services agency was acting within the scope of his or her authority

1 and that the conduct of the director, member, officer, employee, or
2 agent did not amount to gross negligence and was not willful
3 misconduct.