

# HOUSE BILL NO. 5733

February 10, 2022, Introduced by Rep. Cynthia Johnson and referred to the Committee on Judiciary.

A bill to impose a duty on individuals to assist other individuals who are exposed to physical harm; to limit civil liability of individuals who provide assistance; and to impose penalties and provide remedies for failing to act.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act may be cited as the "duty to care law".

2           Sec. 2. As used in this act:

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

1 (b) "Health professional" means an individual who is licensed,  
2 registered, or otherwise authorized to engage in a health  
3 profession under article 15 of the public health code, 1978 PA 368,  
4 MCL 333.16101 to 333.18838.

5 (c) "Law enforcement officer" means that term as defined in  
6 section 2 of the Michigan commission on law enforcement standards  
7 act, 1965 PA 203, MCL 28.602.

8 Sec. 3. (1) An individual who knows that another individual is  
9 exposed to grave physical harm shall give reasonable assistance to  
10 the exposed individual to the extent that the assistance can be  
11 rendered without danger or peril to himself or herself and without  
12 interference with important duties owed to others, and unless the  
13 assistance is being provided by others.

14 (2) An individual who provides assistance under subsection (1)  
15 is not liable in civil damages unless his or her acts constitute  
16 gross negligence or unless he or she will receive or expects to  
17 receive remuneration.

18 Sec. 4. (1) A law enforcement officer has a duty to care. The  
19 duty to care means the officer has a duty to act to prevent harm to  
20 an individual by the use of excessive force by another law  
21 enforcement officer if both of the following apply:

22 (a) The officer observes or has reason to know that the other  
23 officer will use or is using excessive force.

24 (b) The officer has the opportunity and the means to prevent  
25 the harm to the individual.

26 (2) A law enforcement officer who breaches the duty to care  
27 under subsection (1) is liable to the individual harmed for damages  
28 that result from the harm.

29 Sec. 5. A violation of this act is a misdemeanor punishable by

1 imprisonment for not more than 90 days or a fine of not more than  
2 \$500.00, or both.

3       Sec. 6. (1) This act does not alter existing law concerning  
4 tort liability of a health professional for acts committed in the  
5 ordinary course of the health professional's practice.

6       (2) This act does not limit any other liability that may be  
7 imposed under law on an individual who has a duty to act under this  
8 act.

9       Enacting section 1. This act does not take effect unless  
10 Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no. 01644'21 a)  
11 of the 101st Legislature is enacted into law.