

HOUSE BILL NO. 5774

June 04, 2024, Introduced by Reps. Maddock, Carra, Friske, DeBoyer, Rigas, Schriver, DeSana, Fox, Smit, Alexander, Beson, Roth, Wozniak, Aragona, Hoadley and Kunse and referred to the Committee on Government Operations.

A bill to grant immunity from liability and indemnification for enforcement actions to certain state and local government officials, employees, and contractors; to provide for the powers and duties of certain state and local government officers and entities; to provide for the legal defense of state officials, employees, and contractors; and to provide for reimbursement of certain state and local government officials, employees, and contractors for certain legal expenses.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Damages" includes any and all damages, fines, fees,
3 penalties, court costs, attorney fees, or other assessments.

4 (b) "Local government" means a county, city, township, or
5 village.

6 Sec. 3. (1) Except as provided by subsection (4), a local
7 government official, employee, or contractor is immune from
8 liability for damages arising from a cause of action under state
9 law resulting from an action taken by the official, employee, or
10 contractor to enforce section 410d, 410e, or 410f of the Michigan
11 penal code, 1931 PA 328, MCL 750.410d, 750.410e, and 750.410f, or
12 an order issued under section 1a of chapter XVI of the code of
13 criminal procedure, 1927 PA 175, MCL 776.1a, during the course and
14 scope of the official's, employee's, or contractor's office,
15 employment, or contractual performance for or service on behalf of
16 the local government.

17 (2) Subject to subsection (3) and except as provided by
18 subsection (4), a local government shall indemnify an official,
19 employee, or contractor of the local government for damages arising
20 from a cause of action under federal law resulting from an action
21 taken by the official, employee, or contractor to enforce section
22 410d, 410e, or 410f of the Michigan penal code, 1931 PA 328, MCL
23 750.410d, 750.410e, and 750.410f, or an order issued under section
24 1a of chapter XVI of the code of criminal procedure, 1927 PA 175,
25 MCL 776.1a, during the course and scope of the official's,
26 employee's, or contractor's office, employment, or contractual
27 performance for or service on behalf of the local government.

28 (3) Indemnification payments made under subsection (2) by a
29 local government must not exceed the following:

1 (a) In the case of personal injury or death, \$100,000.00 to
2 any 1 person or \$300,000.00 for any single occurrence.

3 (b) \$10,000.00 for a single occurrence of property damage.

4 (4) Subsections (1) and (2) do not apply if a court or jury
5 determines that the local government official, employee, or
6 contractor acted in bad faith, with conscious indifference, or with
7 recklessness.

8 (5) A local government shall indemnify an official, employee,
9 or contractor of the local government for reasonable attorney fees
10 incurred in defense of a criminal prosecution against the official,
11 employee, or contractor for an action taken by the official,
12 employee, or contractor to enforce section 410d, 410e, or 410f of
13 the Michigan penal code, 1931 PA 328, MCL 750.410d, 750.410e, and
14 750.410f, or an order issued under section 1a of chapter XVI of the
15 code of criminal procedure, 1927 PA 175, MCL 776.1a, during the
16 course and scope of the official's, employee's, or contractor's
17 office, employment, or contractual performance for or service on
18 behalf of the local government.

19 (6) This section may not be construed to waive any statutory
20 limits on damages under state law.

21 Sec. 5. (1) Except as provided by subsection (4), an elected
22 or appointed state official or a state employee or contractor is
23 immune from liability for damages arising from a cause of action
24 under state law resulting from an action taken by the official,
25 employee, or contractor to enforce section 410d, 410e, or 410f of
26 the Michigan penal code, 1931 PA 328, MCL 750.410d, 750.410e, and
27 750.410f, or an order issued under section 1a of chapter XVI of the
28 code of criminal procedure, 1927 PA 175, MCL 776.1a, during the
29 course and scope of the official's, employee's, or contractor's

1 office, employment, or contractual performance for or service on
2 behalf of this state.

3 (2) Except as provided by subsection (4), this state shall
4 indemnify an elected or appointed official or a state employee or
5 contractor for damages arising from a cause of action under federal
6 law resulting from an action taken by the official, employee, or
7 contractor to enforce section 410d, 410e, or 410f of the Michigan
8 penal code, 1931 PA 328, MCL 750.410d, 750.410e, and 750.410f, or
9 an order issued under section 1a of chapter XVI of the code of
10 criminal procedure, 1927 PA 175, MCL 776.1a, during the course and
11 scope of the official's, employee's, or contractor's office,
12 employment, or contractual performance for or service on behalf of
13 this state.

14 (3) Notwithstanding any other law, an indemnification payment
15 made under subsection (2) is not subject to an indemnification
16 limit under the laws of this state.

17 (4) Subsections (1) and (2) do not apply if the court or jury
18 determines that the state official, employee, or contractor acted
19 in bad faith, with conscious indifference, or with recklessness.

20 (5) This state shall indemnify a state official, employee, or
21 contractor for reasonable attorney fees incurred in defense of a
22 criminal prosecution against the official, employee, or contractor
23 for an action taken by the official, employee, or contractor to
24 enforce section 410d, 410e, or 410f of the Michigan penal code,
25 1931 PA 328, MCL 750.410d, 750.410e, and 750.410f, or an order
26 issued under section 1a of chapter XVI of the code of criminal
27 procedure, 1927 PA 175, MCL 776.1a, during the course and scope of
28 the official's, employee's, or contractor's office, employment, or
29 contractual performance for or service on behalf of this state.

1 (6) A state official, employee, or contractor who may be
2 entitled to indemnification under subsection (2) is entitled to
3 representation by the attorney general in an action in which the
4 official, employee, or contractor may be entitled to
5 indemnification.

6 (7) This section may not be construed to waive any statutory
7 limits on damages under state law.

8 Sec. 7. If a civil action is brought against an individual who
9 may be entitled to immunity or indemnification under section 3 or
10 5, for actions related to the protections under this act, an appeal
11 must be taken directly to the supreme court.

12 Sec. 9. This act does not affect a defense, immunity, or
13 jurisdictional bar available to this state or a local government or
14 an official, employee, or contractor of this state or a local
15 government.

16 Enacting section 1. This act does not take effect unless
17 Senate Bill No. ____ or House Bill No. 5778 (request no. 05725'24)
18 of the 102nd Legislature is enacted into law.