



Senate

General Assembly

File No. 483

February Session, 2022

Senate Bill No. 204

Senate, April 14, 2022

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING DAMAGES TO PERSON OR PROPERTY CAUSED BY THE NEGLIGENT OPERATION OF A MOTOR VEHICLE OWNED BY A POLITICAL SUBDIVISION OF THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-557n of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage and*
3 *applicable to any civil action pending on or filed on or after the effective date of*
4 *this act*):

5 (a) (1) Except as otherwise provided by law, a political subdivision of
6 the state shall be liable for damages to person or property caused by: (A)
7 The negligent acts or omissions of such political subdivision or any
8 employee, officer or agent thereof acting within the scope of his
9 employment or official duties; (B) negligence in the performance of
10 functions from which the political subdivision derives a special
11 corporate profit or pecuniary benefit; and (C) acts of the political
12 subdivision which constitute the creation or participation in the creation
13 of a nuisance; provided, no cause of action shall be maintained for

14 damages resulting from injury to any person or property by means of a
15 defective road or bridge except pursuant to section 13a-149. (2) Except
16 as otherwise provided by law, a political subdivision of the state shall
17 not be liable for damages to person or property caused by: (A) Acts or
18 omissions of any employee, officer or agent which constitute criminal
19 conduct, fraud, actual malice or wilful misconduct; or (B) negligent acts
20 or omissions which require the exercise of judgment or discretion as an
21 official function of the authority expressly or impliedly granted by law.
22 Notwithstanding the provisions of subparagraph (B) of this subdivision,
23 governmental immunity shall not be a defense in a civil action for
24 damages to person or property caused by the negligent operation of a
25 motor vehicle owned by a political subdivision of the state.

26 (b) Notwithstanding the provisions of subsection (a) of this section, a
27 political subdivision of the state or any employee, officer or agent acting
28 within the scope of his employment or official duties shall not be liable
29 for damages to person or property resulting from: (1) The condition of
30 natural land or unimproved property; (2) the condition of a reservoir,
31 dam, canal, conduit, drain or similar structure when used by a person
32 in a manner which is not reasonably foreseeable; (3) the temporary
33 condition of a road or bridge which results from weather, if the political
34 subdivision has not received notice and has not had a reasonable
35 opportunity to make the condition safe; (4) the condition of an unpaved
36 road, trail or footpath, the purpose of which is to provide access to a
37 recreational or scenic area, if the political subdivision has not received
38 notice and has not had a reasonable opportunity to make the condition
39 safe; (5) the initiation of a judicial or administrative proceeding,
40 provided that such action is not determined to have been commenced
41 or prosecuted without probable cause or with a malicious intent to vex
42 or trouble, as provided in section 52-568; (6) the act or omission of
43 someone other than an employee, officer or agent of the political
44 subdivision; (7) the issuance, denial, suspension or revocation of, or
45 failure or refusal to issue, deny, suspend or revoke any permit, license,
46 certificate, approval, order or similar authorization, when such
47 authority is a discretionary function by law, unless such issuance,
48 denial, suspension or revocation or such failure or refusal constitutes a

49 reckless disregard for health or safety; (8) failure to make an inspection
50 or making an inadequate or negligent inspection of any property, other
51 than property owned or leased by or leased to such political subdivision,
52 to determine whether the property complies with or violates any law or
53 contains a hazard to health or safety, unless the political subdivision had
54 notice of such a violation of law or such a hazard or unless such failure
55 to inspect or such inadequate or negligent inspection constitutes a
56 reckless disregard for health or safety under all the relevant
57 circumstances; (9) failure to detect or prevent pollution of the
58 environment, including groundwater, watercourses and wells, by
59 individuals or entities other than the political subdivision; or (10)
60 conditions on land sold or transferred to the political subdivision by the
61 state when such conditions existed at the time the land was sold or
62 transferred to the political subdivision.

63 (c) Any person who serves as a member of any board, commission,
64 committee or agency of a municipality and who is not compensated for
65 such membership on a salary or prorated equivalent basis, shall not be
66 personally liable for damage or injury occurring on or after October 1,
67 1992, resulting from any act, error or omission made in the exercise of
68 such person's policy or decision-making responsibilities on such board,
69 commission, committee or agency if such person was acting in good
70 faith, and within the scope of such person's official functions and duties,
71 and was not acting in violation of any state, municipal or professional
72 code of ethics regulating the conduct of such person, or in violation of
73 subsection (a) of section 9-369b or subsection (b) or (c) of section 1-206.
74 The provisions of this subsection shall not apply if such damage or
75 injury was caused by the reckless, wilful or wanton misconduct of such
76 person.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage and applicable to any civil action pending on or filed on or after the effective date of this act</i>	52-557n
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JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 23 \$	FY 24 \$
Various Municipalities	Potential Cost	See Below	See Below

Explanation

The bill results in a potential cost to municipalities from eliminating governmental immunity as a valid defense in a civil suit involving negligent operation of a motor vehicle. Any potential costs would vary based on the amounts awarded to plaintiffs and the number of suits brought annually.

As the bill applies only to political subdivisions of the state, there is no fiscal impact to the state itself.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the terms of any civil suit brought against a municipality.

OLR Bill Analysis**SB 204*****AN ACT CONCERNING DAMAGES TO PERSON OR PROPERTY CAUSED BY THE NEGLIGENT OPERATION OF A MOTOR VEHICLE OWNED BY A POLITICAL SUBDIVISION OF THE STATE.*****SUMMARY**

Under existing law, political subdivisions of the state (e.g., municipalities) are generally liable for damages to a person or property caused by, among other things, their negligence or the negligence of their employees, officers, or agents acting within the scope of their employment or official duties. However, they are not liable for damages caused by negligent acts or omissions requiring the exercise of judgment or discretion as an official function of authority granted by law (i.e., discretionary actions). So, political subdivisions are immune from civil liability for damages caused by discretionary actions.

Regardless of the exception for negligence caused by discretionary actions above, this bill eliminates the defense of governmental immunity for damages to a person or property caused by any, even discretionary, negligent operation of a motor vehicle owned by a political subdivision, potentially making a political subdivision liable for these damages. (Presumably, this change applies only to motor vehicles operated by an employee, officer, or agent of the political subdivision that owns it.)

EFFECTIVE DATE: Upon passage and applicable to any civil action pending on or filed on or after that date.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 34 Nay 4 (03/29/2022)