

Governmental Tort Liability Act (GTLA) – MCL 691.1401, et seq., P.A. 1964, No. 170, Eff. July 1, 1965

“AN ACT to make *uniform* the *liability* of [all governmental entities, etc.]...when engaged in...governmental function, for injuries to property and persons; “to *define* and *limit this liability*....” (emphasis added).

Ross v. Consumers Power Co., 420 Mich. 567 (1985) (only the legislative *exceptions* to governmental immunity can impose liability on the government).

Nawrocki v. Macomb County Road Comm’n, 463 Mich. 143 (2000) (statutory exceptions must be narrowly construed and immunity broadly granted).

Costa v. Community Emergency Medical Services, Inc., 475 Mich. 403, 409-410, 412-413 (2006) (governmental and private tortfeasors are treated differently and holding statutory “standard of care” in medical malpractice action *not applicable* to government employees because *statutory gross negligence exception* to immunity trumps otherwise applicable tort standards).

Wesche v. Mecosta County Road Comm’n, 480 Mich. 75 (2008) (MCL 691.1405 (the motor vehicle exception) imposes liability for “bodily injury” and “property damage”, only, resulting from a governmental employee's negligent operation of a government-owned motor vehicle).

In re Bradley’s Estate, 494 Mich. 367, 385-389, 389 (2013) (MCL 691.1407(1) explaining meaning of “tort liability” in GTLA and if an “action permits an award of damages to a private party as compensation for an injury, then the action, no matter how it is labeled, seeks to impose *tort liability* and the GTLA is applicable”).

The No-Fault Automobile Insurance Act (The No-Fault Act) – MCL 500.3101, et seq., 1972 P.A. 294

MCL 500.3109(1) (No-Fault Act’s statutory subrogation provision entitles first-party insurer to recover or subtract “benefits provided or required to be provided under the laws of any state...from the personal protection insurance benefits otherwise payable” *limited*, by the GTLA to “bodily injury” and “property “ claims).

MCL 500.3114 (contribution / priority provision assumes governmental involvement referring to transportation authority / government owned buses).

Thornton v. Allstate Ins. Co., 425 Mich. 643, 660-661 (1986) (MCL 500.3105 no-fault benefits available *without regard to fault* arising out of use of a motor vehicle as a motor vehicle (ownership, operation, maintenance and use) and clarifying the causation analysis under the No-Fault Act “arising out of” not “but for”).

Hardy v. Oakland County, 461 Mich. 561 (2000) (restrictions set forth in the No-Fault Act control the broad statement of liability found in the GTLA and holding that plaintiffs seeking noneconomic (threshold injury) damages from governmental entities under the motor vehicle exception must still prove “serious impairment”, i.e., a threshold injury, to recover noneconomic (and presumably other third-party tort) damages available under the No-Fault Act).

Trent v. SMART, 252 Mich. App. 247 (2002) (implies the government’s ownership of motor vehicles means it is subject to the No-Fault Act).

Hunter v. Sisco, 300 Mich. App. 229 (2013) (holding noneconomic (pain and suffering, etc.) damages are not available to a person injured in a motor vehicle accident due to negligent operation by a governmental employee of a government-owned motor vehicle because MCL 691.1405 limits liability to bodily injury and property damage, only).

Hannay v. MDOT, 299 Mich. App. 261 (2013) (holding excess economic (wage loss) and “future earnings potential” damages, traditional third-party tort damages under the No-Fault Act, MCL 500.3135 *are available* against the government under MCL 691.1405 (the motor vehicle exception)).