

Senate File 2012 - Introduced

SENATE FILE 2012

BY SODDERS

A BILL FOR

1 An Act providing an exemption from liability for certain
2 actions by an officer or employee of a municipality under
3 the Iowa municipal tort claims Act.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 670.4, Code 2014, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3A. Any claim arising out of
4 assault, battery, false imprisonment, false arrest,
5 malicious prosecution, abuse of process, libel, slander,
6 misrepresentation, deceit, or interference with contract
7 rights.

8

EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill provides an exception to a municipality's
12 liability for certain actions by an officer or employee of the
13 municipality under the Iowa municipal tort claims Act (IMTCA,
14 Code chapter 670).

15 Under the IMTCA, every municipality (defined as a city,
16 county, township, school district, and any other unit of local
17 government except soil and water conservation districts)
18 is subject to liability for its torts and those of its
19 officers and employees acting within the scope of their
20 employment or duties, whether arising out of a governmental
21 or proprietary function, except as otherwise provided in the
22 IMTCA. Municipalities are required to defend, hold harmless,
23 and indemnify municipal officers and employees from any claims
24 occurring within the scope of their employment or duties.
25 Municipal officers and employees under Code section 670.12 are
26 not liable for such exempted claims unless actual malice or
27 willful, wanton, and reckless misconduct is proven. The IMTCA
28 contains 15 exclusions from liability for certain types of
29 claims.

30 This bill excludes from a municipality's liability claims
31 against any officer or employee of the municipality under
32 the IMTCA for actions by an officer or employee arising
33 out of assault, battery, false imprisonment, false arrest,
34 malicious prosecution, abuse of process, libel, slander,
35 misrepresentation, deceit, or interference with contract

1 rights.

2 Under the IMTCA, "officer" is defined to include but not
3 be limited to members of a "governing body" defined as the
4 council of a city, county board of supervisors, board of
5 township trustees, local school board, and other boards and
6 commissions exercising quasi-legislative, quasi-executive, and
7 quasi-judicial power over territory comprising a municipality.
8 "Employee" includes a person who performs services for a
9 municipality whether or not the person is compensated for the
10 services, unless the services are performed incident to the
11 person's attendance at a municipality function (Code section
12 670.2).

13 In *Thomas v. Gavin*, 838 N.W.2d 518 (2013), the Iowa Supreme
14 Court refused to extend the immunity provided under Iowa's
15 state tort claims Act (Code chapter 669) for claims against
16 state employees arising out of assault, battery, false
17 imprisonment, false arrest, malicious prosecution, abuse
18 of process, libel, slander, misrepresentation, deceit, or
19 interference with contract rights to municipal officials and
20 employees.