



New Police Reform Law Has No Impact on IRMA Coverage

By: Margo Ely, Executive Director at IRMA

IRMA has been monitoring the police reform legislation for many months, including hosting a webinar with experts, attending ILACP events and reviewing the new Safe-T Act (Public Act 101-0652). Based on our review of the new requirements, IRMA's coverage will not be impacted. In other words, IRMA will continue to defend and indemnify police officers who are named in lawsuits alleging civil rights violations. It should be noted that the new law does not create a new state cause of action. There is a possibility that the legislature will consider creating a new cause of action in the future that is similar to the current Section 1983 action under federal law. Similarly, this new law does not eliminate defenses available under the Illinois Tort Immunity Act, nor does it eliminate the defense of qualified immunity. It does create new duties for police officers and if a lawsuit alleges a police officer breached any of these duties, we will defend and indemnify in these cases. Of note, there is a new duty to render aid and a new duty to intervene. While these are new statutory provisions under Illinois law, these duties are not new; these duties have long been part of federal common law and are frequently alleged in lawsuits. The new law simply provides for these duties by state statute now. IRMA provides all members with police liability coverage of \$15 million per occurrence, which includes cases alleging false arrest, excessive force, malicious prosecution, civil rights violations protected by Section 1983, negligence, willful and wanton misconduct.

A note about Qualified Immunity. There has been much discussion on both the state and federal level about the defense of qualified immunity. This is a defense first created by the United States Supreme Court many years ago and shields police officers from liability in circumstances when the law was not clearly established at the time. For example, when an officer arrests a person under a law and that law is later found to be unconstitutional, the subsequent false arrest lawsuit against the officer is ripe for the defense of qualified immunity because the law was not unconstitutional at the time the officer made the arrest. The state of Illinois does not have the authority to eliminate the qualified immunity defense in federal cases. Only Congress has that authority. Regardless of whether the state or federal legislature abolishes the qualified immunity defense, IRMA will continue to defend and indemnify officers.