

# HOUSE BILL No. 4315

March 10, 1987, Introduced by Rep. Porreca and referred to the  
Committee on Judiciary.

A bill to amend Act No. 236 of the Public Acts of 1961,  
entitled as amended  
"Revised judicature act of 1961,"  
as amended, being sections 600.101 to 600.9947 of the Michigan  
Compiled Laws, by adding section 2912f.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Act No. 236 of the Public Acts of 1961, as  
2 amended, being sections 600.101 to 600.9947 of the Michigan  
3 Compiled Laws, is amended by adding section 2912f to read as  
4 follows:

5       SEC. 2912F. (1) A PERSON AND, IF THE PERSON IS REPRESENTED  
6 BY AN ATTORNEY, THE PERSON'S ATTORNEY, SHALL NOT FILE AN ACTION  
7 BASED ON MEDICAL MALPRACTICE UNLESS, BASED UPON A REASONABLE  
8 INVESTIGATION, THE PERSON OR THE PERSON'S ATTORNEY HAS A GOOD  
9 FAITH BELIEF IN EITHER OR BOTH OF THE FOLLOWING:

1 (A) THE EXISTENCE OF THE FACTS UPON WHICH THE CLAIM IS  
2 BASED.

3 (B) THAT THE FACTS UPON WHICH THE CLAIM IS BASED CONSTITUTE  
4 EITHER A VALID CLAIM UNDER EXISTING LAW OR A GOOD FAITH ARGUMENT  
5 FOR THE AMENDMENT OR REPEAL OF EXISTING LAW.

6 (2) IF A PERSON AND, IF THE PERSON IS REPRESENTED BY AN  
7 ATTORNEY, THE PERSON'S ATTORNEY DOES NOT MEET EITHER OR BOTH OF  
8 THE REQUIREMENTS OF SUBSECTION (1), AND IF BOTH OF THE FOLLOWING  
9 OCCUR, THE PERSON AND, IF THE PERSON IS REPRESENTED BY AN ATTOR-  
10 NEY, THE PERSON'S ATTORNEY SHALL BE LIABLE IN A CIVIL ACTION FOR  
11 DAMAGES INCURRED BY THE DEFENDANT IN THE ACTION BASED ON MEDICAL  
12 MALPRACTICE:

13 (A) THE ACTION IS TERMINATED IN FAVOR OF THE DEFENDANT.

14 (B) THE DEFENDANT SUFFERS INJURY OR DAMAGES AS A RESULT OF  
15 THE ACTION. FOR PURPOSES OF THIS SUBDIVISION, THE DEFENDANT  
16 SHALL NOT BE REQUIRED TO PROVE SPECIAL DAMAGES.

17 (3) AS USED IN THIS SECTION, "MEDICAL MALPRACTICE" MEANS A  
18 CLAIM BASED ON THE MALPRACTICE OF, OR THE FAILURE TO OBTAIN  
19 INFORMED CONSENT BY, A PERSON WHO IS, OR HOLDS HIMSELF OR HERSELF  
20 OUT TO BE, A MEMBER OF A STATE LICENSED HEALTH PROFESSION.