

# SENATE BILL No. 13

January 24, 1991, Introduced by Senator DE GROW and referred to the Committee on Judiciary.

A bill to amend sections 1483 and 5851 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," section 1483 as added and section 5851 as amended by Act No. 178 of the Public Acts of 1986, being sections 600.1483 and 600.5851 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 1483 and 5851 of Act No. 236 of the  
2 Public Acts of 1961, section 1483 as added and section 5851 as  
3 amended by Act No. 178 of the Public Acts of 1986, being sections  
4 600.1483 and 600.5851 of the Michigan Compiled Laws, are amended  
5 to read as follows:

6       Sec. 1483. (1) In an action for damages alleging medical  
7 malpractice against a person or party specified in section 5838a,  
8 damages for noneconomic loss ~~which exceeds~~ THAT EXCEED

1 \$225,000.00 shall not be awarded unless 1 or more of the  
2 following circumstances exist:

3 ~~-(a) There has been a death.~~

4 (A) ~~-(b)~~ There has been an intentional tort.

5 (B) ~~-(c)~~ A foreign object was wrongfully left in the body  
6 of the patient.

7 ~~-(d) The injury involves the reproductive system of the~~  
8 ~~patient.~~

9 (C) ~~-(e)~~ The discovery of the existence of the claim was  
10 prevented by the fraudulent conduct of a health care provider.

11 (D) ~~-(f)~~ A limb or organ of the patient was wrongfully  
12 removed.

13 ~~-(g) The patient has lost a vital bodily function.~~

14 (2) In awarding damages in an action alleging medical mal-  
15 practice, the trier of fact shall itemize damages into DAMAGES  
16 FOR economic LOSS and ~~noneconomic~~ damages FOR NONECONOMIC  
17 LOSS.

18 (3) ~~"Noneconomic~~ AS USED IN THIS SECTION, "NONECONOMIC  
19 loss" ~~means~~ INCLUDES, BUT IS NOT LIMITED TO, damages or loss  
20 due to pain, suffering, inconvenience, physical impairment, OR  
21 physical disfigurement. ~~, or other noneconomic loss.~~

22 (4) The STATE TREASURER SHALL ADJUST THE limitation on  
23 ~~noneconomic~~ damages FOR NONECONOMIC LOSS set forth in subsec-  
24 tion (1) ~~shall be increased~~ by an amount determined by the  
25 state treasurer at the end of each calendar year to reflect the  
26 cumulative annual percentage ~~increase~~ CHANGE in the consumer  
27 price index. As used in this subsection, "consumer price index"

1 means the most comprehensive index of consumer prices available  
2 for this state from the bureau of labor statistics of the United  
3 States department of labor.

4       Sec. 5851. (1) Except as otherwise provided in subsection  
5 (7), if the person first entitled to make an entry or bring an  
6 action is under 18 years of age, insane, or imprisoned at the  
7 time the claim accrues, the person or those claiming under the  
8 person shall have 1 year after the disability is removed, through  
9 death or otherwise, to make the entry or bring the action  
10 although the period of limitations has run. This section does  
11 not lessen the time provided for in section 5852.

12       (2) The term insane as employed in this chapter means a con-  
13 dition of mental derangement such as to prevent the sufferer from  
14 comprehending rights he or she is otherwise bound to know and is  
15 not dependent on whether or not the person has been judicially  
16 declared to be insane.

17       (3) To be ~~deemed~~ CONSIDERED a disability, the infancy,  
18 insanity, or imprisonment must exist at the time the claim  
19 accrues. If the disability comes into existence after the claim  
20 has accrued, A COURT SHALL NOT RECOGNIZE the disability ~~shall~~  
21 ~~not be recognized under this section~~ for the purpose of modify-  
22 ing the period of limitations.

23       (4) ~~Successive disabilities shall not be tacked. That is,~~  
24 A PERSON SHALL NOT TACK SUCCESSIVE DISABILITIES. A COURT SHALL  
25 RECOGNIZE only those disabilities ~~which~~ THAT exist at the time  
26 the claim first accrues and ~~which~~ THAT disable the person to

1 whom the claim first accrues ~~shall be recognized under this~~  
2 ~~section~~ for the purpose of modifying the period of limitations.

3 (5) ~~All~~ A COURT SHALL RECOGNIZE ALL of the disabilities of  
4 infancy, insanity, and imprisonment ~~which~~ THAT disable the  
5 person to whom the claim first accrues at the time the claim  
6 first accrues. ~~shall be recognized. That is,~~ A COURT SHALL  
7 COUNT the year of grace provided in this section ~~shall be~~  
8 ~~counted~~ from the termination of the last disability to the  
9 person to whom the claim originally accrued ~~which~~ THAT has con-  
10 tinued from the time the claim accrued, whether this disability  
11 terminates because of the death of the person disabled or for  
12 some other reason.

13 (6) With respect to a claim accruing before the effective  
14 date of the age of majority act of 1971, Act No. 79 of the Public  
15 Acts of 1971, being sections 722.51 to 722.55 of the Michigan  
16 Compiled Laws, THE disability of infancy ~~shall be~~ IS considered  
17 removed as of the effective date of Act No. 79 of the Public Acts  
18 of 1971, as to persons who were at least 18 years of age but less  
19 than 21 years of age on January 1, 1972, and ~~shall be~~ IS con-  
20 sidered removed as of the eighteenth birthday of a person who was  
21 under 18 years of age on January 1, 1972.

22 (7) If ~~—~~ at the time a claim alleging medical malpractice  
23 accrues to a person under section 5838a ~~—~~ the person is ~~13~~ 6  
24 years of age or less, an action based on the claim shall not be  
25 brought unless the action is commenced on or before the person's  
26 ~~fifteenth~~ EIGHTH birthday. If ~~—~~ at the time a claim alleging  
27 medical malpractice accrues to a person under section 5838a ~~—~~

1 the person is more than ~~13~~ 6 years of age, he or she ~~shall be~~  
2 IS subject to the period of limitations set forth in  
3 section 5838a.