



HOUSE BILL No. 4493

March 11, 1993, Introduced by Reps. Bennane, Baade, Dobronski, Kilpatrick, Pitoniak, Scott, Schroer, Murphy, Stallworth, DeMars, Gubow and Jondahl 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 2912j.

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 2912j to read as
4 follows:

5 SEC. 2912J. (1) IN AN ACTION ALLEGING MEDICAL MALPRACTICE,
6 THE COURT SHALL NOT ENTER AN ORDER OR JUDGMENT THAT HAS THE PUR-
7 POSE OR EFFECT OF DOING ANY OF THE FOLLOWING:

1 (A) PROHIBITING PUBLIC ACCESS TO OR CONCEALING FROM THE
2 PUBLIC INFORMATION CONTAINED IN A RECORD CONCERNING THE ACTION
3 AND MAINTAINED BY THE COURT.

4 (B) PROHIBITING A PARTY TO THE ACTION OR THE PARTY'S ATTOR-
5 NEY FROM PROVIDING ANY INFORMATION CONCERNING THE ACTION, WHETHER
6 OR NOT THE INFORMATION WAS OBTAINED THROUGH DISCOVERY IN THE
7 ACTION, TO ANY PERSON.

8 (C) PROHIBITING A PARTY TO THE ACTION OR THE PARTY'S ATTOR-
9 NEY FROM VOLUNTARILY PROVIDING INFORMATION ABOUT A SETTLEMENT
10 AGREEMENT IN THE ACTION TO ANY PERSON.

11 (D) PROHIBITING ACCESS TO OR CONCEALING ANY OF THE
12 FOLLOWING:

13 (i) THE NAME OF THE JUDGE WHO PRESIDED OVER THE ACTION.

14 (ii) THE NAMES OF THE PARTIES TO THE ACTION.

15 (iii) THE NAMES OF THE ATTORNEYS WHO REPRESENTED THE PARTIES
16 TO THE ACTION.

17 (2) SUBJECT TO SUBSECTION (3), IF THE PLAINTIFF IN AN ACTION
18 ALLEGING MEDICAL MALPRACTICE ENTERS INTO A SETTLEMENT AGREEMENT
19 WITH A DEFENDANT CONCERNING THE ACTION, THE PLAINTIFF'S ATTORNEY
20 OR, IF THE PLAINTIFF IS NOT REPRESENTED BY AN ATTORNEY, THE
21 PLAINTIFF SHALL FILE A COMPLETE WRITTEN COPY OF THE SETTLEMENT
22 AGREEMENT WITH THE COURT.

23 (3) THE PLAINTIFF MAY FILE A MOTION TO EXCLUDE SPECIFIC MED-
24 ICAL INFORMATION CONCERNING THE PLAINTIFF FROM A COPY OF A SET-
25 TLEMENT AGREEMENT FILED WITH THE COURT UNDER SUBSECTION (2), AS
26 PROVIDED IN THIS SUBSECTION. A HEARING ON A MOTION FILED UNDER
27 THIS SUBSECTION SHALL BE IN CAMERA. THE COURT SHALL ENTER AN

1 ORDER TO ALLOW THE PLAINTIFF TO EXCLUDE SPECIFIC MEDICAL
2 INFORMATION CONCERNING THE PLAINTIFF FROM THE COPY OF THE SETTLE-
3 MENT AGREEMENT FILED WITH THE COURT IF THE COURT DETERMINES ALL
4 OF THE FOLLOWING:

5 (A) THE PLAINTIFF HAS A SPECIFIC, SERIOUS, AND SUBSTANTIAL
6 INTEREST IN LIMITING PUBLIC DISCLOSURE OF THE INFORMATION.

7 (B) THE INFORMATION IS OF A PERSONAL NATURE AND PUBLIC DIS-
8 CLOSURE OF THE INFORMATION WOULD CONSTITUTE A CLEARLY UNWARRANTED
9 INVASION OF THE PLAINTIFF'S PRIVACY.

10 (C) THE INTEREST IN LIMITING PUBLIC DISCLOSURE OF THE INFOR-
11 MATION CLEARLY OUTWEIGHS THE INTEREST IN ALLOWING PUBLIC DISCLO-
12 SURE OF THE INFORMATION AND ANY ADVERSE EFFECT THAT LIMITING
13 PUBLIC DISCLOSURE OF THE INFORMATION MIGHT HAVE ON ANOTHER
14 PERSON'S SAFETY OR HEALTH.

15 (D) THERE IS NOT A LESS RESTRICTIVE MEANS AVAILABLE THAT
16 WILL ADEQUATELY AND EFFECTIVELY PROTECT THE PRIVACY INTEREST
17 ASSERTED BY THE PLAINTIFF.

18 (4) ANY PORTION OF A SETTLEMENT AGREEMENT OR OF AN AGREEMENT
19 OR CONTRACT RESULTING FROM A SETTLEMENT AGREEMENT IN AN ACTION
20 ALLEGING MEDICAL MALPRACTICE THAT HAS THE PURPOSE OR EFFECT OF
21 PROHIBITING A PARTY TO THE ACTION OR THE PARTY'S ATTORNEY FROM
22 PROVIDING ANY INFORMATION CONCERNING THE ACTION TO ANY PERSON,
23 WHETHER OR NOT THE INFORMATION WAS OBTAINED THROUGH DISCOVERY IN
24 THE ACTION, IS VOID, CONTRARY TO PUBLIC POLICY, AND IS NOT
25 ENFORCEABLE.

26 (5) ANY AFFECTED PERSON, INCLUDING, BUT NOT LIMITED TO, A
27 REPRESENTATIVE OF THE NEWS MEDIA, HAS STANDING TO CONTEST AN

1 ORDER, JUDGMENT, AGREEMENT, OR CONTRACT THAT VIOLATES THIS
2 SECTION. A PERSON MAY CONTEST AN ORDER, JUDGMENT, AGREEMENT, OR
3 CONTRACT THAT VIOLATES THIS SECTION BY MOTION IN THE COURT THAT
4 ENTERED THE ORDER OR JUDGMENT, OR BY BRINGING A DECLARATORY JUDG-
5 MENT ACTION AS PROVIDED BY LAW.

6 (6) THIS SECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

7 (A) RECORDS OR INFORMATION SPECIFICALLY EXEMPTED FROM DIS-
8 CLOSURE BY STATUTE.

9 (B) RECORDS OR INFORMATION SPECIFICALLY EXEMPTED FROM DIS-
10 CLOSURE BY A PROTECTIVE COURT ORDER CONCERNING A TRADE SECRET OR
11 OTHER CONFIDENTIAL RESEARCH, DEVELOPMENT, OR COMMERCIAL
12 INFORMATION.