



SENATE BILL No. 1223

September 13, 1994, Introduced by Senator VAN REGENMORTER
and referred to the Committee on Judiciary

A bill to amend section 6304 of Act No 236 of the Public
Acts of 1961, entitled as amended

"Revised judicature act of 1961,"

as amended by Act No 78 of the Public Acts of 1993, being sec-
tion 600 6304 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 6304 of Act No 236 of the Public Acts
2 of 1961, as amended by Act No 78 of the Public Acts of 1993,
3 being section 600 6304 of the Michigan Compiled Laws, is amended
4 to read as follows

5 Sec 6304 (1) ~~In~~ UNLESS OTHERWISE AGREED TO BY ALL PAR-
6 TIES TO THE ACTION, IN a personal injury action involving fault
7 of more than 1 ~~party to the action, including third party~~
8 ~~defendants, the court, unless otherwise agreed by all parties to~~
9 ~~the action,~~ PERSON, INCLUDING, BUT NOT LIMITED TO, PLAINTIFFS,

1 DEFENDANTS, THIRD-PARTY DEFENDANTS, AND PERSONS RELEASED FROM
2 LIABILITY UNDER SECTION 2925D, THE COURT shall instruct the jury
3 to answer special interrogatories or, if there is no jury, shall
4 make findings indicating both of the following

5 (a) The total amount of each plaintiff's damages

6 (b) The percentage of the total fault ~~of all of the~~
7 ~~parties~~ regarding each claim ~~as to~~ THAT IS ATTRIBUTABLE TO
8 EACH PERSON CONTRIBUTING TO THE INJURIES, INCLUDING, BUT NOT
9 LIMITED TO, each plaintiff, defendant, ~~and~~ third-party
10 defendant, AND PERSON RELEASED FROM LIABILITY UNDER SECTION
11 2925D

12 (2) In determining the percentages of fault under subsection
13 (1)(b), the trier of fact shall consider both the nature of the
14 conduct of each ~~party~~ PERSON at fault and the extent of the
15 causal relation between the conduct and the damages claimed

16 (3) If it is determined under subsections (1) and (2) that a
17 plaintiff is not at fault, subsections (5) and (6) do not apply

18 (4) Subsections (5) and (6) do not apply to a products
19 liability action, as defined in section 2945

20 (5) The court shall determine the award of damages to each
21 plaintiff in accordance with the findings under subsection (1),
22 subject to any reduction under subsection (6) or section 2925d or
23 6303, and SHALL enter judgment against each party, including a
24 third-party defendant, ~~except that judgment shall not be~~
25 ~~entered~~ FOR THE PERCENTAGE OF THE PLAINTIFF'S DAMAGES ATTRIBUTED
26 TO THE PARTY UNDER SUBSECTION (1) HOWEVER, THE COURT SHALL NOT
27 ENTER A JUDGMENT against a person who has been released from

1 liability pursuant to section 2925d, BUT SHALL STATE IN THE
2 JUDGMENT THE PERCENTAGE OF FAULT ATTRIBUTED TO THE PERSON UNDER
3 SUBSECTION (1) Except as otherwise provided in subsection (7),
4 a person AGAINST WHOM A JUDGMENT IS ENTERED shall not be required
5 to pay damages in an amount greater than his or her percentage of
6 fault

7 (6) In an action alleging medical malpractice, the court
8 shall reduce an award of damages in excess of 1 of the limita-
9 tions set forth in section 1483 to the amount of the appropriate
10 limitation set forth in section 1483 The jury shall not be
11 advised by the court or by counsel for either party of the limi-
12 tations set forth in section 1483 or any other provision of sec-
13 tion 1483

14 (7) Except as otherwise provided in this subsection and sub-
15 section (8), upon motion made not later than 6 months after a
16 final judgment is entered, the court shall determine whether all
17 or part of a party's share of the obligation is uncollectible
18 from that party, and SHALL DETERMINE THE SHARE OF PLAINTIFF'S
19 DAMAGES THAT IS UNCOLLECTIBLE FROM ANY OTHER PERSON TO WHOM FAULT
20 IS ATTRIBUTED UNDER SUBSECTION (1) HOWEVER, IF A PLAINTIFF SET-
21 TLES WITH A PERSON FOR AN AMOUNT THAT IS LESS THAN THE AMOUNT
22 ALLOCATED TO THE PERSON BASED ON THE PERCENTAGE OF FAULT
23 ATTRIBUTED TO THAT PERSON UNDER SUBSECTION (1), THE AMOUNT ALLO-
24 CATED TO THAT PERSON THAT EXCEEDS THE SETTLEMENT AMOUNT SHALL NOT
25 BE CONSIDERED UNCOLLECTIBLE FOR THE PURPOSES OF THIS SUBSECTION
26 THE COURT shall reallocate ~~any~~ THE uncollectible amount among
27 the other parties according to their respective percentages of

1 fault as determined under subsection (1) A party shall not be
2 required to pay a percentage of ~~any~~ AN uncollectible amount
3 that exceeds that party's percentage of fault as determined under
4 subsection (1) The party whose liability is reallocated contin-
5 ues to be subject to contribution and to any continuing liability
6 to the plaintiff on the judgment

7 (8) Notwithstanding subsection (3), a governmental agency,
8 other than a governmental hospital or medical care facility, is
9 not required to pay a percentage of ~~any~~ AN uncollectible amount
10 that exceeds the governmental agency's percentage of fault as
11 determined under subsection (1)