

**SUBSTITUTE FOR
SENATE BILL NO. 718**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding section 2955b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2955B. (1) AS USED IN THIS SECTION:

2 (A) "CIVIL ACTION BY A PERPETRATOR" MEANS A CIVIL ACTION FOR
3 DAMAGES FOR A PERPETRATOR'S PERSONAL INJURY OR DEATH, WHICH
4 INJURY OR DEATH OCCURRED DURING EITHER OF THE FOLLOWING:

5 (i) THE COMMISSION OF OR IMMEDIATE FLIGHT FROM THE FELONY.

6 (ii) THE COMMISSION OF OR IMMEDIATE FLIGHT FROM THE ACTS
7 THAT COULD RESULT IN A CONVICTION OR DETERMINATION OF RESPONSI-
8 BILITY FOR A FELONY.

9 (B) "FELONY" MEANS A VIOLATION OF A LAW OF THIS STATE OR OF
10 THE UNITED STATES THAT IS DESIGNATED AS A FELONY OR THAT IS
11 PUNISHABLE BY DEATH OR IMPRISONMENT FOR MORE THAN 1 YEAR.

SB 718, As Passed Senate, December 10, 1997

SB 718 as amended December 10, 1997

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1 (C) "ITEMIZED CRIME" MEANS ANY OF THE FOLLOWING:

2 (i) A VIOLATION OF SECTION 72, 73, 83, 84, 86, 89, 91, 110,
3 110A, 145C, 316, 317, 349, 350, 397, 520B, 529, 529A, OR 531 OF
4 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.72, 750.73, 750.83,
5 750.84, 750.86, 750.89, 750.91, 750.110, 750.110A, 750.145C,
6 750.316, 750.317, 750.349, 750.350, 750.397, 750.520B, 750.529,
7 750.529A, AND 750.531.

8 (ii) A VIOLATION OF SECTION 7401(2)(A)(i) OR 7403(2)(A)(i)
9 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 AND
10 333.7403.

11 (iii) A VIOLATION OF A LAW OF THE UNITED STATES THAT IS SUB-
12 STANTIALLY SIMILAR TO A VIOLATION DESCRIBED IN SUBPARAGRAPH (i)
13 OR (ii).

14 (iv) AN ATTEMPT TO COMMIT A VIOLATION DESCRIBED IN SUBPARA-
15 GRAPH (i), (ii), OR (iii).

16 (v) CONSPIRACY TO COMMIT A VIOLATION DESCRIBED IN SUBPARA-
17 GRAPH (i), (ii), OR (iii).

18 (vi) SOLICITATION TO COMMIT A VIOLATION DESCRIBED IN SUB-
19 PARAGRAPH (i), (ii), OR (iii).

20 (D) "PERPETRATOR" MEANS AN INDIVIDUAL WHO IS CONVICTED OF A
21 FELONY; WHO IS DETERMINED TO BE RESPONSIBLE FOR A FELONY UNDER
22 CHAPTER XIIA OF 1939 PA 288, MCL 712A.1 TO 712A.32; OR WHO HAS
23 COMMITTED ACTS THAT COULD RESULT IN A CONVICTION FOR A FELONY.

24 (2) THE COURT SHALL DISMISS A CIVIL ACTION BY A PERPETRATOR
25 WITH PREJUDICE AND AWARD COSTS AND ACTUAL ATTORNEY FEES TO THE
26 PERSON AGAINST WHOM THE ACTION IS BROUGHT IF THE COURT DETERMINES AS
27 A MATTER OF LAW THAT ANY OF THE FOLLOWING
ARE TRUE:

1 (A) THE CONVICTION OR DETERMINATION OF RESPONSIBILITY OF THE
2 PERPETRATOR IS FOR AN ITEMIZED CRIME.

3 (B) THE CONVICTION OR DETERMINATION OF RESPONSIBILITY OF THE
4 PERPETRATOR IS FOR A FELONY OTHER THAN AN ITEMIZED CRIME. IF THE
5 PERPETRATOR'S INJURY OR DEATH RESULTED FROM PHYSICAL FORCE, THE
6 COURT SHALL NOT DISMISS AN ACTION AS PROVIDED IN THIS SUBDIVISION
7 UNLESS IT IS ALSO FOUND THAT THE PERSON WHO CAUSED THE INJURY OR
8 DEATH ACTED IN EITHER OF THE FOLLOWING MANNERS:

9 (i) UNDER A REASONABLE BELIEF THAT PHYSICAL FORCE WAS REA-
10 SONABLE AND APPROPRIATE TO PREVENT INJURY TO HIMSELF OR HERSELF,
11 OR TO OTHERS, USING A DEGREE OF FORCE THAT THE PERSON REASONABLY
12 BELIEVED NECESSARY FOR THAT PURPOSE.

13 (ii) UNDER A REASONABLE BELIEF THAT PHYSICAL FORCE WAS REA-
14 SONABLE AND APPROPRIATE TO PREVENT THE COMMISSION OF A FELONY,
15 USING A DEGREE OF FORCE THAT THE PERSON REASONABLY BELIEVED NEC-
16 ESSARY FOR THAT PURPOSE.

17 (C) THE PERPETRATOR HAS NOT BEEN CONVICTED OF OR DETERMINED
18 TO BE RESPONSIBLE FOR A FELONY; THE DEFENDANT ALLEGES THAT THE
19 PLAINTIFF IS A PERPETRATOR; AND IN THE CIVIL ACTION BY A PERPE-
20 TRATOR, THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT
21 THE PERPETRATOR COMMITTED ACTS THAT ARE THE ELEMENTS OF A FELONY.
IF THE
22 PERPETRATOR'S INJURY OR DEATH RESULTED FROM PHYSICAL FORCE, THE
23 COURT SHALL NOT DISMISS AN ACTION AS PROVIDED IN THIS SUBDIVISION
24 UNLESS IT IS ALSO FOUND THAT THE PERSON WHO CAUSED THE INJURY OR
25 DEATH ACTED IN EITHER OF THE FOLLOWING MANNERS:

26 (i) UNDER A REASONABLE BELIEF THAT PHYSICAL FORCE WAS
27 REASONABLE AND APPROPRIATE TO PREVENT INJURY TO HIMSELF OR

1 HERSELF, OR TO OTHERS, USING A DEGREE OF FORCE THAT THE PERSON
2 REASONABLY BELIEVED NECESSARY FOR THAT PURPOSE.

3 (ii) UNDER A REASONABLE BELIEF THAT PHYSICAL FORCE WAS REA-
4 SONABLE AND APPROPRIATE TO PREVENT THE COMMISSION OF A FELONY,
5 USING A DEGREE OF FORCE THAT THE PERSON REASONABLY BELIEVED NEC-
6 ESSARY FOR THAT PURPOSE.

7 (3) IF A PLAINTIFF IN A CIVIL ACTION IS CHARGED WITH A
8 FELONY OR A PETITION IS FILED ALLEGING THE PLAINTIFF IS RESPONS-
9 BLE FOR A FELONY AND WITHIN THE COURT'S JURISDICTION UNDER CHAP-
10 TER XIIIA OF 1939 PA 288, MCL 712A.1 TO 712A.32, THE COURT SHALL
11 STAY THE CIVIL ACTION IN REGARD TO THAT PLAINTIFF UNTIL THE FINAL
12 DISPOSITION OF THE FELONY CASE, INCLUDING APPEALS, IF BOTH OF THE
13 FOLLOWING TAKE PLACE:

14 (A) A DEFENDANT MOVES TO DISMISS THE CIVIL ACTION IN REGARD
15 TO THAT PLAINTIFF AS A CIVIL ACTION BY A PERPETRATOR.

16 (B) THE COURT FINDS PROBABLE CAUSE TO BELIEVE THAT THE CIVIL
17 ACTION IN REGARD TO THAT PLAINTIFF IS A CIVIL ACTION BY A
18 PERPETRATOR.