

SENATE BILL No. 1244

April 24, 2002, Introduced by Senator GOSCHKA and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2912c (MCL 600.2912c), as added by 1986 PA
178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2912c. (1) In an action alleging medical malpractice,
2 a party named as a defendant in the action may, instead of
3 answering or otherwise pleading, file with the court an affidavit
4 certifying that he or she was not involved, either directly or
5 indirectly, in the occurrence alleged in the action. Unless the
6 affidavit is opposed ~~pursuant to~~ AS PROVIDED IN subsection (2),
7 the court shall order the dismissal of the claim ~~, without~~
8 ~~prejudice,~~ against the affiant WITHOUT PREJUDICE.

9 (2) ~~Any~~ A party to the action may oppose the dismissal or
10 move to vacate an order of dismissal and reinstate the party who

1 filed the affidavit if it can be shown that the party filing the
2 affidavit was involved in the occurrence alleged in the action.
3 Reinstatement of a party to the action under this subdivision
4 ~~shall~~ IS not ~~be~~ barred by ~~any~~ A statute of limitations
5 defense that was not valid at the time the action was originally
6 commenced against the affiant. The opposing party may obtain
7 discovery regarding the involvement or noninvolvement of the
8 party filing the affidavit. The discovery shall be completed
9 within 90 days after the date the affidavit is filed.

10 (3) THE COURT SHALL DISMISS A CLAIM IN AN ACTION ALLEGING
11 MEDICAL MALPRACTICE BROUGHT AGAINST AN EMERGENCY ROOM PHYSICIAN
12 WHO IS BOARD CERTIFIED IN EMERGENCY MEDICINE IF ALL OF THE FOL-
13 LOWING APPLY:

14 (A) THE CLAIM IS NOT BASED ON MEDICAL CARE PROVIDED BY THE
15 EMERGENCY ROOM PHYSICIAN.

16 (B) THE CLAIM IS BASED ON MEDICAL CARE PROVIDED BY ANOTHER
17 HEALTH PROFESSIONAL WHO HAS PRIVILEGES WITH, IS EMPLOYED BY, OR
18 IS UNDER CONTRACT WITH THE HEALTH FACILITY OPERATING THE EMER-
19 GENCY ROOM.

20 (C) THE ONLY CONNECTION BETWEEN THE ALLEGED MEDICAL MALPRAC-
21 TICE AND THE EMERGENCY ROOM PHYSICIAN IS THAT THE EMERGENCY ROOM
22 PHYSICIAN RECOMMENDED THE PLAINTIFF'S ADMISSION TO THE HEALTH
23 FACILITY.