

## MEDICAL MALPRACTICE DAMAGES

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**Senate Bill 1104 as passed by the Senate**  
**Sponsor: Sen. Mike Shirkey**  
**House Committee: Insurance**  
**Senate Committee: Michigan Competitiveness**  
**Complete to 11-30-16**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 556 of 2016)*

### SUMMARY:

Senate Bill 1104 would add a section to the Revised Judicature Act of 1961 (proposed MCL 600.1482) to limit the damages for medical expenses in the state's medical malpractice laws.

Specifically, notwithstanding any other law to the contrary, in an action that alleges a medical malpractice claim, it would limit damages for past medical expenses or rehabilitation services to actual damages for medical care that arose out of the alleged medical malpractice. It would also prohibit the court from allowing a plaintiff to introduce evidence of past medical expenses or rehabilitation service expenses at trial, except for evidence of the actual damages for medical care.

**Actual damages for medical care**, as used in Section 1482, means both of the following:

- The dollar amount actually paid for past medical expenses or rehabilitation service expenses by or on behalf of the individual whose medical care is at issue, including payments made by insurers, but excluding any contractual discounts, price reductions, or write-offs by any person; and
- Any remaining dollar amount that the plaintiff is liable to pay for the medical care.

**Person** means an individual, partnership, corporation, association, governmental entity, or other legal entity.

The bill would take effect 90 days after enactment, and would apply to an action filed on or after that date.

### BACKGROUND:

The bill was drafted and introduced in response to a request for clarification from the Michigan Supreme Court in July of 2016. Proponents say it is intended to eliminate a loophole which allows plaintiffs to recover damages for medical expenses that were never incurred or paid.

### FISCAL IMPACT:

SB 1104 would have no fiscal impact on the state or on local units of government.

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