

HOUSE BILL NO. 5934

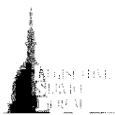
July 21, 2020, Introduced by Reps. Hood, Stone, Guerra, Tyrone Carter, Haadsma, Wittenberg, Kuppa, Pagan, Clemente, Brenda Carter, Garrett, Cynthia Johnson, Lasinski, Rabhi, Hertel, Elder, Cambensy, Hoadley, LaGrand, Byrd, Garza, Kennedy, Cynthia Neeley, Hope, Pohutsky, Love, Gay-Dagnogo, Yancey, Green, Wozniak, Greig, Hammoud and Ellison and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3172 (MCL 500.3172), as amended by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3172. (1) A person entitled to claim because of
2 accidental bodily injury arising out of the ownership, operation,
3 maintenance, or use of a motor vehicle as a motor vehicle in this
4 state may claim personal protection insurance benefits through the
5 assigned claims plan if any of the following apply:

6 (a) No personal protection insurance is applicable to the



1 injury.

2 (b) No personal protection insurance applicable to the injury
3 can be identified.

4 (c) No personal protection insurance applicable to the injury
5 can be ascertained because of a dispute between 2 or more
6 automobile insurers concerning their obligation to provide coverage
7 or the equitable distribution of the loss.

8 (d) The only identifiable personal protection insurance
9 applicable to the injury is, because of financial inability of 1 or
10 more insurers to fulfill their obligations, inadequate to provide
11 benefits up to the maximum prescribed.

12 (2) Unpaid benefits due or coming due as described in
13 subsection (1) may be collected under the assigned claims plan, and
14 the insurer to which the claim is assigned is entitled to
15 reimbursement from the defaulting insurers to the extent of their
16 financial responsibility.

17 (3) A person entitled to claim personal protection insurance
18 benefits through the assigned claims plan under subsection (1)
19 shall file a completed application on a claim form provided by the
20 Michigan automobile insurance placement facility and provide
21 reasonable proof of loss to the Michigan automobile insurance
22 placement facility. The Michigan automobile insurance placement
23 facility or an insurer assigned to administer a claim on behalf of
24 the Michigan automobile insurance placement facility under the
25 assigned claims plan shall specify in writing the materials that
26 constitute a reasonable proof of loss within 60 days after receipt
27 by the Michigan automobile insurance placement facility of an
28 application that complies with this subsection.

29 (4) The Michigan automobile insurance placement facility or an



1 insurer assigned to administer a claim on behalf of the Michigan
2 automobile insurance placement facility under the assigned claims
3 plan is not required to pay interest in connection with a claim for
4 any period of time during which the claim is reasonably in dispute.

5 (5) Except as otherwise provided in this subsection, personal
6 protection insurance benefits, including benefits arising from
7 accidents occurring before March 29, 1985, payable through the
8 assigned claims plan must be reduced to the extent that benefits
9 covering the same loss are available from other sources, regardless
10 of the nature or number of benefit sources available and regardless
11 of the nature or form of the benefits, to a person claiming
12 personal protection insurance benefits through the assigned claims
13 plan. This subsection only applies if the personal protection
14 insurance benefits are payable through the assigned claims plan
15 under subsection (1)(a), (b), or (d). As used in this subsection,
16 "sources" and "benefit sources" do not include the program for
17 medical assistance for the medically indigent under the social
18 welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or health
19 insurance for the aged and disabled under subchapter XVIII of the
20 social security act, 42 USC 1395 to 1395III.

21 (6) If the obligation to provide personal protection insurance
22 benefits cannot be ascertained because of a dispute between 2 or
23 more automobile insurers concerning their obligation to provide
24 coverage or the equitable distribution of the loss, and if a method
25 of voluntary payment of benefits cannot be agreed upon among or
26 between the disputing insurers, all of the following apply:

27 (a) The insurers who are parties to the dispute shall, or the
28 claimant may, immediately notify the Michigan automobile insurance
29 placement facility of their inability to determine their statutory



1 obligations.

2 (b) The Michigan automobile insurance placement facility shall
3 assign the claim to an insurer and the insurer shall immediately
4 provide personal protection insurance benefits to the claimant or
5 claimants entitled to benefits.

6 (c) The insurer assigned the claim by the Michigan automobile
7 insurance placement facility shall immediately commence an action
8 on behalf of the Michigan automobile insurance placement facility
9 in circuit court to declare the rights and duties of any interested
10 party.

11 (d) The insurer to whom the claim is assigned shall join as
12 parties defendant to the action commenced under subdivision (c)
13 each insurer disputing either the obligation to provide personal
14 protection insurance benefits or the equitable distribution of the
15 loss among the insurers.

16 (e) The circuit court shall declare the rights and duties of
17 any interested party whether or not other relief is sought or could
18 be granted.

19 (f) After hearing the action, the circuit court shall
20 determine the insurer or insurers, if any, obligated to provide the
21 applicable personal protection insurance benefits and the equitable
22 distribution, if any, among the insurers obligated, and shall order
23 reimbursement to the Michigan automobile insurance placement
24 facility from the insurer or insurers to the extent of the
25 responsibility as determined by the court. The reimbursement
26 ordered under this subdivision must include all benefits and costs
27 paid or incurred by the Michigan automobile insurance placement
28 facility and all benefits and costs paid or incurred by insurers
29 determined not to be obligated to provide applicable personal



1 protection insurance benefits, including incurred attorney fees and
2 interest at the rate prescribed in section 3175 applicable on
3 December 31 of the year preceding the determination of the circuit
4 court.

5 (7) The Michigan automobile insurance placement facility and
6 the insurer to whom a claim is assigned by the Michigan automobile
7 insurance placement facility are only required to provide personal
8 protection insurance benefits under section 3107(1)(a) up to
9 whichever of the following is applicable:

10 (a) Unless subdivision (b) **or (c)** applies, the limit provided
11 in section 3107c(1)(b).

12 (b) If the person is entitled to claim benefits under the
13 assigned claims plan under section 3107d(6)(c) or 3109a(2)(d)(ii),
14 \$2,000,000.00.

15 **(c) If the person is entitled to claim benefits under the**
16 **assigned claims plan under section 3115 and was riding a bicycle at**
17 **the time he or she suffered the accidental bodily injury, the**
18 **person is entitled to coverage as provided under section**
19 **3107c(1)(d).**

