

SENATE BILL NO. 895

April 28, 2020, Introduced by Senator RUNESTAD and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding section 1473.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1473. (1) The legislature finds both of the following:

2 (a) The right to trial by jury as preserved by the state
3 constitution of 1963 is sacrosanct and the decisions of juries
4 should not be lightly discarded.

5 (b) It is the public policy of this state that litigants be
6 afforded the highest possible degree of certainty that jury

1 verdicts will be respected and enforced.

2 (c) This section is intended to be remedial.

3 (2) This section applies only to circumstances in which a
4 party seeks relief from a circuit court judgment based on a jury
5 verdict more than 21 days after entry of the judgment on the
6 grounds of mistake, inadvertence, surprise, or excusable neglect;
7 of newly discovered evidence; of fraud, misrepresentation, or other
8 misconduct of an adverse party; or that the judgment is void; or
9 for another reason that the party believes justifies relief from
10 the operation of the judgment.

11 (3) To obtain relief from a judgment under this section, a
12 person must do all of the following:

13 (a) Demonstrate by clear and convincing evidence that the
14 person is entitled to relief.

15 (b) Support the request for relief by describing all grounds
16 justifying the relief, with affidavits or documentary evidence
17 supporting each ground, and demonstrating a prima facie case for
18 relief.

19 (4) A request for relief under this section must be reviewed
20 and adjudicated by a three-judge panel of the circuit court or, for
21 a circuit in which there are fewer than 3 circuit judges, by as
22 many judges as is practical. The reviewing panel shall deny the
23 request for relief unless 2 or more of the judges find clear and
24 convincing evidence justifying the relief.

25 (5) The party opposing a request for relief from judgment
26 under this section has the right to an evidentiary hearing. The
27 evidentiary hearing must be limited to the grounds set out in the
28 request for relief. After the completion of the evidentiary
29 hearing, the reviewing panel shall issue detailed findings of facts

1 and conclusions of law supporting its decision.

2 (6) If the reviewing panel denies a request for relief under
3 this section, the requesting party shall pay the costs and
4 reasonable attorney fees incurred by the party opposing the request
5 for relief.

6 (7) An order granting relief from judgment under this section
7 is subject to an immediate appeal of right to the court of appeals.
8 Action in the circuit court must be stayed while the matter is on
9 appeal.

10 (8) If a reviewing panel enters an order granting relief from
11 judgment under this section and orders a new trial, it is against
12 the public policy of this state to enforce a contract provision
13 that requires a party that prevailed in the original trial to pay
14 the costs or attorney fees of a party that did not prevail in the
15 original action, even if the result is different in the subsequent
16 trial.

17 (9) If a reviewing panel enters an order granting relief from
18 judgment under this section and orders a new trial, the action must
19 be reassigned to a judge who has not participated in previous
20 proceedings in the action.

21 (10) If a reviewing panel enters an order granting relief from
22 judgment under this section and orders a new trial, the fact that a
23 request for relief was made and granted, and the findings of the
24 reviewing panel, are not admissible in evidence and must not be
25 presented at the new trial. This subsection does not prohibit the
26 admission of the factual evidence underlying the request for
27 relief, if otherwise admissible.

28 (11) This section does not apply to an action to which section
29 6098 applies.

1 (12) This section applies retroactively to actions in which a
2 request for relief from judgment was filed after May 31, 2019.