

HOUSE BILL No. 4532

April 5, 1989, Introduced by Rep. Porreca and referred to the Committee on Judiciary.

A bill to amend Act No. 236 of the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
as amended, being sections 600.101 to 600.9947 of the Michigan Compiled Laws, by adding section 2912f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 236 of the Public Acts of 1961, as
2 amended, being sections 600.101 to 600.9947 of the Michigan
3 Compiled Laws, is amended by adding section 2912f to read as
4 follows:

5 SEC. 2912F. (1) A PERSON, AND IF THE PERSON IS REPRESENTED
6 BY AN ATTORNEY, THE PERSON'S ATTORNEY, SHALL NOT FILE AN ACTION
7 BASED ON MEDICAL MALPRACTICE UNLESS, BASED UPON A REASONABLE
8 INVESTIGATION, THE PERSON OR THE PERSON'S ATTORNEY HAS A GOOD
9 FAITH BELIEF IN EITHER OR BOTH OF THE FOLLOWING:

1 (A) THE EXISTENCE OF THE FACTS UPON WHICH THE CLAIM IS
2 BASED.

3 (B) THAT THE FACTS UPON WHICH THE CLAIM IS BASED CONSTITUTE
4 EITHER A VALID CLAIM UNDER EXISTING LAW OR A GOOD FAITH ARGUMENT
5 FOR THE AMENDMENT OR REPEAL OF EXISTING LAW.

6 (2) IF A PERSON, AND IF THE PERSON IS REPRESENTED BY AN
7 ATTORNEY, THE PERSON'S ATTORNEY, DOES NOT MEET EITHER OR BOTH OF
8 THE REQUIREMENTS OF SUBSECTION (1), AND IF BOTH OF THE FOLLOWING
9 OCCUR, THE PERSON, AND IF THE PERSON IS REPRESENTED BY AN ATTOR-
10 NEY, THE PERSON'S ATTORNEY, SHALL BE LIABLE IN A CIVIL ACTION FOR
11 DAMAGES INCURRED BY THE DEFENDANT IN THE ACTION BASED ON MEDICAL
12 MALPRACTICE:

13 (A) THE ACTION IS TERMINATED IN FAVOR OF THE DEFENDANT.

14 (B) THE DEFENDANT SUFFERS INJURY OR DAMAGES AS A RESULT OF
15 THE ACTION. FOR PURPOSES OF THIS SUBDIVISION, THE DEFENDANT
16 SHALL NOT BE REQUIRED TO PROVE SPECIAL DAMAGES.