

HOUSE BILL No. 5894

June 21, 1990, Introduced by Reps. Profit, Palamara, DeMars, Stupak, Griffin, Ciaramitaro, Richard A. Young, Hoffman, Martin, Bennane, Power, Gubow, Barns and Pitoniak and referred to the Committee on Judiciary.

A bill to amend section 5851 of Act No. 236 of the Public Acts of 1961, entitled as amended

"Revised judicature act of 1961,"

as amended by Act No. 178 of the Public Acts of 1986, being section 600.5851 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 5851 of Act No. 236 of the Public Acts
2 of 1961, as amended by Act No. 178 of the Public Acts of 1986,
3 being section 600.5851 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 5851. (1) Except as otherwise provided in subsection
6 (7), if the person first entitled to make an entry or bring an
7 action is under 18 years of age ~~— OR insane — or imprisoned —~~
8 at the time the claim accrues, the person or those claiming under
9 the person shall have 1 year after the disability is removed

1 through death or otherwise, to make the entry or bring the action
2 although the period of limitations has run. This section does
3 not lessen the time provided for in section 5852.

4 (2) The term ~~insane~~ "INSANE" as employed in this chapter
5 means a condition of mental derangement such as to prevent the
6 sufferer from comprehending rights he or she is otherwise bound
7 to know and is not dependent on whether or not the person has
8 been judicially declared to be insane.

9 (3) To be deemed a disability, the infancy ~~—~~ OR insanity,
10 ~~or imprisonment~~ must exist at the time the claim accrues. If
11 the disability comes into existence after the claim has accrued,
12 the disability shall not be recognized under this section for the
13 purpose of modifying the period of limitations.

14 (4) Successive disabilities shall not be tacked. That is,
15 only those disabilities which exist at the time the claim first
16 accrues and which disable the person to whom the claim first
17 accrues shall be recognized under this section for the purpose of
18 modifying the period of limitations.

19 (5) ~~All~~ BOTH of the disabilities of infancy ~~—~~ AND insan-
20 ity ~~—, and imprisonment~~ which disable the person to whom the
21 claim first accrues at the time the claim first accrues shall be
22 recognized. That is, the year of grace provided in this section
23 shall be counted from the termination of the last disability to
24 the person to whom the claim originally accrued which has contin-
25 ued from the time the claim accrued, whether this disability ter-
26 minates because of the death of the person disabled or for some
27 other reason.

1 (6) With respect to a claim accruing before the effective
2 date of the age of majority act of 1971, Act No. 79 of the Public
3 Acts of 1971, being sections 722.51 to 722.55 of the Michigan
4 Compiled Laws, disability of infancy shall be considered removed
5 as of the effective date of Act No. 79 of the Public Acts of
6 1971, as to persons who were at least 18 years of age but less
7 than 21 years of age on January 1, 1972, and shall be considered
8 removed as of the eighteenth birthday of a person who was under
9 18 years of age on January 1, 1972.

10 (7) If, at the time a claim alleging medical malpractice
11 accrues to a person under section 5838a, the person is 13 years
12 of age or less, an action based on the claim shall not be brought
13 unless the action is commenced on or before the person's fif-
14 teenth birthday. If, at the time a claim alleging medical mal-
15 practice accrues to a person under section 5838a, the person is
16 more than 13 years of age, he or she shall be subject to the
17 period of limitations set forth in section 5838a.