

SENATE BILL No. 130

February 9, 1989, Introduced by Senators N. SMITH, POSTHUMUS
and SCHWARZ and referred to the Committee on Judiciary.

A bill to amend sections 1483 and 6304 of Act No. 236 of the
Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
as added by Act No. 178 of the Public Acts of 1986, being sec-
tions 600.1483 and 600.6304 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1483 and 6304 of Act No. 236 of the
2 Public Acts of 1961, as added by Act No. 178 of the Public Acts
3 of 1986, being sections 600.1483 and 600.6304 of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 1483. (1) In an action for damages alleging medical
6 malpractice against a person or party specified in section 5838a,
7 damages for noneconomic loss which exceeds ~~\$225,000.00~~
8 \$300,000.00 shall not be awarded unless ~~1 or more~~ EITHER OR
9 BOTH of the following circumstances exist:

1 (b) The percentage of the total fault of all of the parties
2 regarding each claim as to each plaintiff, defendant, and
3 third-party defendant.

4 (2) In determining the percentages of fault under subsection
5 (1)(b), the trier of fact shall consider both the nature of the
6 conduct of each party at fault and the extent of the causal rela-
7 tion between the conduct and the damages claimed.

8 (3) If it is determined under subsections (1) and (2) that a
9 plaintiff is not at fault, subsections (5) and (6) shall not
10 apply.

11 (4) Subsections (5) and (6) shall not apply to a products
12 liability action, as defined in section 2945.

13 (5) The court shall determine the award of damages to each
14 plaintiff in accordance with the findings under subsection (1),
15 subject to any reduction under sections 2925d and 6303, and enter
16 judgment against each party, including a third-party defendant,
17 except that judgment shall not be entered against a person who
18 has been released from liability pursuant to section 2925d.
19 Except as otherwise provided in subsection (6), a person shall
20 not be required to pay damages in an amount greater than his or
21 her percentage of fault.

22 (6) Except as otherwise provided in this subsection and
23 ~~subsection~~ SUBSECTIONS (7) AND (8), upon motion made not later
24 than 6 months after a final judgment is entered, the court shall
25 determine whether all or part of a party's share of the obliga-
26 tion is uncollectible from that party, and shall reallocate any
27 uncollectible amount among the other parties according to their

1 respective percentages of fault as determined under subsection
2 (1). A party shall not be required to pay a percentage of any
3 uncollectible amount which exceeds that party's percentage of
4 fault as determined under subsection (1). The party whose
5 liability is reallocated shall continue to be subject to contri-
6 bution and to any continuing liability to the plaintiff on the
7 judgment.

8 (7) IN AN ACTION FOR DAMAGES ALLEGING MEDICAL MALPRACTICE
9 AGAINST A PERSON OR PARTY SPECIFIED IN SECTION 5838A, IF A
10 DEFENDANT IS DETERMINED UNDER SUBSECTION (1) TO BE LESS THAN 50%
11 AT FAULT, SUBSECTION (6) SHALL NOT APPLY TO THAT DEFENDANT, AND
12 THAT DEFENDANT SHALL NOT BE REQUIRED TO PAY DAMAGES IN AN AMOUNT
13 GREATER THAN HIS OR HER DETERMINED PERCENTAGE OF FAULT.

14 (8) ~~-(7)-~~ Notwithstanding subsection (3), a governmental
15 agency, other than a governmental hospital or medical care facil-
16 ity, shall not be required to pay a percentage of any uncollecti-
17 ble amount which exceeds the governmental agency's percentage of
18 fault as determined under subsection (1).