

SENATE BILL NO. 502

May 13, 1997, Introduced by Senators HOFFMAN, STILLE,
SCHWARZ, BULLARD, GOUGEON and BENNETT and referred
to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2912a (MCL 600.2912a), as amended by 1993 PA
78.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2912a. (1) Subject to subsection (2), in an action
2 alleging malpractice, the plaintiff has the burden of proving
3 that in light of the state of the art existing at the time of the
4 alleged malpractice:

5 (a) The defendant, if a general practitioner, failed to pro-
6 vide the plaintiff the recognized standard of acceptable profes-
7 sional practice or care in the community in which the defendant
8 practices or in a similar community, and that as a proximate
9 result of the defendant failing to provide that standard, the
10 plaintiff suffered an injury.

1 (b) The defendant, if a specialist, failed to provide the
2 recognized standard of practice or care within that specialty as
3 reasonably applied in light of the facilities available in the
4 community or other facilities reasonably available under the cir-
5 cumstances, and as a proximate result of the defendant failing to
6 provide that standard, the plaintiff suffered an injury.

7 (2) In an action alleging medical malpractice, the plaintiff
8 has the burden of proving that he or she suffered an injury that
9 more probably than not was proximately caused by the negligence
10 of the defendant or defendants. In an action alleging medical
11 malpractice, the plaintiff cannot recover for loss of an opportu-
12 nity to survive or an opportunity to achieve a better result
13 unless the opportunity was greater than 50%.

14 (3) AN INDIVIDUAL WHO IS INCARCERATED IN A CORRECTIONAL
15 FACILITY SHALL NOT BRING AN ACTION FOR MEDICAL MALPRACTICE FOR
16 MEDICAL TREATMENT OR CARE PROVIDED TO THAT INDIVIDUAL DURING THE
17 PERIOD OF INCARCERATION, WHICH TREATMENT OR CARE IS NOT PAID FOR
18 BY THE INDIVIDUAL OR THE INDIVIDUAL'S HEALTH INSURER. AS USED IN
19 THIS SUBSECTION, "CORRECTIONAL FACILITY" MEANS THAT TERM AS
20 DEFINED IN SECTION 2 OF THE CORRECTIONAL OFFICERS' TRAINING ACT
21 OF 1982, 1982 PA 415, MCL 791.502.