

HOUSE BILL No. 6372

August 13, 2008, Introduced by Rep. Cushingberry and referred to the Committee on
Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judiciary act of 1961,"
by amending section 1483 (MCL 600.1483), as amended by 1993 PA 78,
and by adding section 231.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 231. IN AN ACTION ALLEGING MEDICAL MALPRACTICE OR BROUGHT**
2 **UNDER SECTION 2922, THE SUPREME COURT SHALL NOT APPLY A DECISION**
3 **OVERTURNING ESTABLISHED PRECEDENT RETROACTIVELY.**

4 Sec. 1483. (1) ~~In~~**SUBJECT TO SUBSECTION (2), IN** an action for
5 damages alleging medical malpractice by or against a person or
6 party, the total amount of damages for noneconomic loss recoverable
7 by all plaintiffs, resulting from the negligence of all defendants,

1 shall not exceed \$280,000.00 unless, as the result of the
2 negligence of 1 or more of the defendants, 1 or more of the
3 following exceptions apply as determined by the court pursuant to
4 section 6304, in which case damages for noneconomic loss shall not
5 exceed \$500,000.00:

6 (a) The plaintiff is hemiplegic, paraplegic, or quadriplegic
7 resulting in a total permanent functional loss of 1 or more limbs
8 caused by 1 or more of the following:

9 (i) Injury to the brain.

10 (ii) Injury to the spinal cord.

11 (b) The plaintiff has permanently impaired cognitive capacity
12 rendering him or her incapable of making independent, responsible
13 life decisions and permanently incapable of independently
14 performing the activities of normal, daily living.

15 (c) There has been permanent loss of or damage to a
16 reproductive organ resulting in the inability to procreate.

17 **(2) THE LIMITATIONS IN THIS SECTION DO NOT APPLY IF 1 OR BOTH**
18 **OF THE FOLLOWING APPLY:**

19 **(A) THE NEGLIGENCE OF 1 OR MORE OF THE DEFENDANTS RESULTS IN**
20 **THE DEATH OF THE PLAINTIFF.**

21 **(B) THE NEGLIGENCE OF 1 OR MORE OF THE DEFENDANTS AMOUNTED TO**
22 **GROSS NEGLIGENCE. IF THIS SUBDIVISION APPLIES, THE EXCEPTION TO THE**
23 **LIMITATIONS IN DAMAGES ONLY APPLIES AS AGAINST A DEFENDANT WHO WAS**
24 **DETERMINED TO BE GROSSLY NEGLIGENT.**

25 **(3) ~~(2)~~ In UNLESS SUBSECTION (2) APPLIES, IN** awarding damages
26 in an action alleging medical malpractice, the trier of fact shall
27 itemize damages into damages for economic loss and damages for

1 noneconomic loss.

2 (4) ~~(3)~~—As used in this section, "noneconomic loss" means
3 damages or loss due to pain, suffering, inconvenience, physical
4 impairment, physical disfigurement, or other noneconomic loss.

5 (5) ~~(4)~~—The state treasurer shall adjust ~~the~~ **EACH** limitation
6 on damages for noneconomic loss set forth in subsection (1) by an
7 amount determined by the state treasurer at the end of each
8 calendar year to reflect the cumulative annual percentage change in
9 the consumer price index. As used in this subsection, "consumer
10 price index" means the most comprehensive index of consumer prices
11 available for this state from the bureau of labor statistics of the
12 United States department of labor.

13 Enacting section 1. The amendments to section 1483 of the
14 revised judicature act of 1961, 1961 PA 236, MCL 600.1483, enacted
15 by this amendatory act apply retroactively to April 1, 1994.