

HOUSE BILL No. 4827

June 16, 1987, Introduced by Reps. Brown, Barns and Gubow and referred to the Committee on Judiciary.

A bill to amend sections 5805 and 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 sections 600.5805 and 600.5851 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 5805 and 5851 of Act No. 236 of the
2 Public Acts of 1961, as amended by Act No. 178 of the Public Acts
3 of 1986, being sections 600.5805 and 600.5851 of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 5805. (1) A person shall not bring or maintain an
6 action to recover damages for injuries to persons or property
7 unless, after the claim first accrued to the plaintiff or to
8 someone through whom the plaintiff claims, the action is
9 commenced within the periods of time prescribed by this section.

1 (2) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (10),
2 THE period of limitations is 2 years for an action charging
3 assault, battery, or false imprisonment.

4 (3) The period of limitations is 2 years for an action
5 charging malicious prosecution.

6 (4) Except as otherwise provided in this chapter, the period
7 of limitations is 2 years for an action charging malpractice.

8 (5) The period of limitations is 2 years for an action
9 against a sheriff charging misconduct or neglect of office by the
10 sheriff or the sheriff's deputies.

11 (6) The period of limitations is 2 years after the expira-
12 tion of the year for which a constable was elected for actions
13 based on the constable's negligence or misconduct as constable.

14 (7) The period of limitations is 1 year for an action charg-
15 ing libel or slander.

16 (8) The period of limitations is 3 years after the time of
17 the death or injury for all other actions to recover damages for
18 the death of a person, or for injury to a person or property.

19 (9) The period of limitations is 3 years for a products
20 liability action. However, in the case of a product which has
21 been in use for not less than 10 years, the plaintiff, in proving
22 a prima facie case, shall be required to do so without benefit of
23 any presumption.

24 (10) THE PERIOD OF LIMITATIONS IS 6 YEARS FOR AN ACTION
25 CHARGING SEXUAL ASSAULT.

26 Sec. 5851. (1) Except as otherwise provided in ~~subsection~~
27 ~~(7)~~ SUBSECTIONS (7) AND (8), if the person first entitled to

1 make an entry or bring an action is under 18 years of age,
2 insane, or imprisoned at the time the claim accrues, the person
3 or those claiming under the person shall have 1 year after the
4 disability is removed through death or otherwise, to make the
5 entry or bring the action although the period of limitations has
6 run. This section does not lessen the time provided for in
7 section 5852.

8 (2) ~~The term insane as employed~~ AS USED in this chapter,
9 "INSANE" means a condition of mental derangement ~~such as to~~
10 ~~prevent~~ THAT PREVENTS the sufferer from comprehending rights he
11 or she is otherwise bound to know and is not dependent on whether
12 or not the person has been judicially declared to be insane.

13 (3) To be ~~deemed~~ CONSIDERED a disability, the infancy,
14 insanity, or imprisonment must exist at the time the claim
15 accrues. If the disability comes into existence after the claim
16 has accrued, the disability shall not be recognized under this
17 section for the purpose of modifying the period of limitations.

18 (4) Successive disabilities shall not be tacked. ~~That is,~~
19 ~~only~~ ONLY those disabilities which exist at the time the claim
20 first accrues and which disable the person to whom the claim
21 first accrues shall be recognized under this section for the pur-
22 pose of modifying the period of limitations.

23 (5) All of the disabilities of infancy, insanity, and
24 imprisonment which disable the person to whom the claim first
25 accrues at the time the claim first accrues shall be recognized.
26 ~~That is, the~~ THE year of grace provided in this section shall
27 be counted from the termination of the last disability to the

1 person to whom the claim originally accrued which has continued
2 from the time the claim accrued, whether this disability termi-
3 nates because of the death of the person disabled or for some
4 other reason.

5 (6) With respect to a claim accruing before ~~the effective~~
6 ~~date of the age of majority act of 1971, Act No. 79 of the Public~~
7 ~~Acts of 1971, being sections 722.51 to 722.55 of the Michigan~~
8 ~~Compiled Laws,~~ JANUARY 1, 1972, disability of infancy shall be
9 considered removed as of ~~the effective date of Act No. 79 of the~~
10 ~~Public Acts of 1971,~~ JANUARY 1, 1972, as to persons who were at
11 least 18 years of age but less than 21 years of age on January 1,
12 1972, and shall be considered removed as of the eighteenth birth-
13 day of a person who was under 18 years of age on January 1,
14 1972.

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

23 (8) IF THE PERSON ENTITLED TO BRING AN ACTION SUBJECT TO THE
24 PERIOD OF LIMITATIONS UNDER SECTION 5805(10) IS UNDER 18 YEARS OF
25 AGE OR INSANE AT THE TIME THE CLAIM ACCRUES, THE PERSON, OR THOSE
26 CLAIMING UNDER THE PERSON, SHALL HAVE 6 YEARS AFTER THE PERSON'S

1 DISABILITY IS REMOVED THROUGH DEATH OR OTHERWISE, TO BRING THE
2 ACTION ALTHOUGH THE PERIOD OF LIMITATIONS HAS RUN.