



SENATE BILL No. 655

September 14, 1995, Introduced by Senators HOFFMAN and
SCHWARZ and referred to the Committee on Judiciary.

A bill to amend section 2912a of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 78 of the Public Acts of 1993, being section 600.2912a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2912a of Act No. 236 of the Public Acts
2 of 1961, as amended by Act No. 78 of the Public Acts of 1993,
3 being section 600.2912a of the Michigan Compiled Laws, is amended
4 to read as follows:

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

1 (a) The defendant, if a general practitioner, failed to
2 provide the plaintiff the recognized standard of acceptable
3 professional practice or care in the community in which the
4 defendant practices or in a similar community, and that as a
5 proximate result of the defendant failing to provide that stan-
6 dard, the plaintiff suffered an injury.

7 (b) The defendant, if a specialist, failed to provide the
8 recognized standard of practice or care within that specialty as
9 reasonably applied in light of the facilities available in the
10 community or other facilities reasonably available under the cir-
11 cumstances, and as a proximate result of the defendant failing to
12 provide that standard, the plaintiff suffered an injury.

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

20 (3) AN INDIVIDUAL WHO IS INCARCERATED IN A CORRECTIONAL
21 FACILITY SHALL NOT BRING AN ACTION FOR MEDICAL MALPRACTICE FOR
22 MEDICAL TREATMENT OR CARE PROVIDED TO THAT INDIVIDUAL DURING THE
23 PERIOD OF INCARCERATION, WHICH TREATMENT OR CARE IS NOT PAID FOR
24 BY THE INDIVIDUAL OR THE INDIVIDUAL'S HEALTH INSURER. AS USED IN
25 THIS SUBSECTION, "CORRECTIONAL FACILITY" MEANS THAT TERM AS
26 DEFINED IN SECTION 2 OF THE CORRECTIONAL OFFICERS' TRAINING ACT

1 OF 1982, ACT NO. 415 OF THE PUBLIC ACTS OF 1982, BEING SECTION
2 791.502 OF THE MICHIGAN COMPILED LAWS.