

**SUBSTITUTE FOR  
SENATE BILL NO. 502**

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.

**SB 502, As Passed Senate, October 29, 1997**

Senate Bill No. 502

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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 ACTION FOR MEDICAL MALPRACTICE FOR MEDICAL TREATMENT  
15 OR CARE PROVIDED TO AN INDIVIDUAL DURING A PERIOD OF TIME WHEN  
16 THE INDIVIDUAL WAS INCARCERATED AS A RESULT OF A CRIMINAL CONVIC-  
17 TION IN A CORRECTIONAL FACILITY IS BARRED UNLESS THE ACT OR OMIS-  
18 SION OF THE PERSON PROVIDING THE TREATMENT OR CARE UPON WHICH THE  
19 CLAIM IS BASED WAS GROSSLY NEGLIGENT OR INTENTIONAL. AS USED IN  
20 THIS SUBSECTION, "CORRECTIONAL FACILITY" MEANS THAT TERM AS  
21 DEFINED IN SECTION 2 OF THE CORRECTIONAL OFFICERS' TRAINING ACT  
22 OF 1982, 1982 PA 415, MCL 791.502.