

**SUBSTITUTE FOR
HOUSE BILL NO. 5232**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding section 2955b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2955B. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-
2 TION, THE COURT SHALL DISMISS WITH PREJUDICE A PLAINTIFF'S ACTION
3 FOR AN INDIVIDUAL'S BODILY INJURY OR DEATH AND SHALL ORDER THE
4 PLAINTIFF TO PAY EACH DEFENDANT'S COSTS AND ACTUAL ATTORNEY FEES
5 IF THE BODILY INJURY OR DEATH OCCURRED DURING 1 OR MORE OF THE
6 FOLLOWING:

7 (A) THE INDIVIDUAL'S COMMISSION, OR FLIGHT FROM THE COMMIS-
8 SION, OF A FELONY.

9 (B) THE INDIVIDUAL'S ACTS OR FLIGHT FROM ACTS THAT THE
10 FINDER OF FACT IN THE CIVIL ACTION FINDS, BY CLEAR AND CONVINCING
11 EVIDENCE, TO CONSTITUTE ALL THE ELEMENTS OF A FELONY.

HB5232, As Passed House, March 8, 2000

House Bill No. 5232

2

1 (2) IF THE BODILY INJURY OR DEATH DESCRIBED IN SUBSECTION
2 (1) RESULTED FROM FORCE, THE COURT SHALL NOT APPLY SUBSECTION (1)
3 TO THE CLAIM OF THE PLAINTIFF AGAINST A DEFENDANT WHO CAUSED THE
4 INDIVIDUAL'S BODILY INJURY OR DEATH UNLESS THE COURT FINDS THAT
5 THE PARTICULAR DEFENDANT DID EITHER OF THE FOLLOWING:

6 (A) USED A DEGREE OF FORCE THAT A REASONABLE PERSON WOULD
7 BELIEVE TO HAVE BEEN APPROPRIATE TO PREVENT INJURY TO THE
8 DEFENDANT OR TO OTHERS.

9 (B) USED A DEGREE OF FORCE THAT A REASONABLE PERSON WOULD
10 BELIEVE TO HAVE BEEN APPROPRIATE TO PREVENT THE COMMISSION OF A
11 FELONY. IN MAKING A FINDING UNDER THIS SUBSECTION, THE COURT
12 SHALL NOT CONSIDER THE FACT THAT THE DEFENDANT MAY NOT HAVE KNOWN
13 THAT THE PLAINTIFF'S ACTIONS OR ATTEMPTED ACTIONS WOULD BE THE
14 COMMISSION OF A FELONY.

15 (3) IF A PROCEEDING IS PENDING REGARDING AN INDIVIDUAL'S
16 COMMISSION OF A FELONY AND THE INDIVIDUAL IS A PLAINTIFF IN A
17 CIVIL ACTION FOR DAMAGES FOR HIS OR HER OWN BODILY INJURY, THE
18 COURT SHALL STAY THE PLAINTIFF'S CIVIL ACTION IN REGARD TO A
19 CLAIM AGAINST A PARTICULAR DEFENDANT UNTIL THE FINAL DISPOSITION
20 OF THE PROCEEDING ON THE INDIVIDUAL'S COMMISSION OF A FELONY,
21 INCLUDING APPEALS, BUT ONLY IF BOTH OF THE FOLLOWING OCCUR:

22 (A) THE DEFENDANT MOVES UNDER SUBSECTION (1) TO DISMISS THE
23 PLAINTIFF'S CLAIM IN REGARD TO THE DEFENDANT.

24 (B) THE COURT FINDS PROBABLE CAUSE TO BELIEVE THAT SUBSEC-
25 TION (1) APPLIES TO THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT.

26 (4) THE PERIOD OF LIMITATIONS TO BRING A CIVIL ACTION FOR
27 DAMAGES FOR AN INDIVIDUAL'S BODILY INJURY OR DEATH IS TOLLED

HB5232, As Passed House, March 8, 2000

House Bill No. 5232

3

1 DURING EACH PERIOD OF TIME THAT A COURT PROCEEDING IS PENDING
2 REGARDING THE INDIVIDUAL IN A CRIMINAL ACTION OR AN ADJUDICATION
3 UNDER CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL
4 712A.1 TO 712A.32, INCLUDING APPEALS, BUT ONLY IF THE CIVIL
5 ACTION IS BASED ON THE SAME EVENTS AS THE CRIMINAL ACTION OR
6 ADJUDICATION.

7 (5) THIS SECTION DOES NOT APPLY UNDER CIRCUMSTANCES GOVERNED
8 BY SECTION 1902.

9 (6) THIS SECTION APPLIES ONLY TO A CIVIL ACTION FILED ON OR
10 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
11 SECTION.

12 (7) AS USED IN THIS SECTION:

13 (A) "COMMISSION OF A FELONY" MEANS EITHER OF THE FOLLOWING:

14 (i) A CONVICTION FOR A FELONY.

15 (ii) AN ADJUDICATION UNDER CHAPTER XIIIA OF THE PROBATE CODE
16 OF 1939, 1939 PA 288, MCL 712A.1 TO 712A.32, HOLDING AN INDIVID-
17 UAL RESPONSIBLE FOR AN OFFENSE THAT IF COMMITTED BY AN ADULT
18 WOULD BE A FELONY.

19 (B) "FELONY" MEANS A VIOLATION OF A LAW OF THIS STATE OR OF
20 THE UNITED STATES THAT IS DESIGNATED AS A FELONY OR THAT IS PUN-
21 ISHABLE BY DEATH OR IMPRISONMENT FOR MORE THAN 1 YEAR.

22 (C) "PLAINTIFF" INCLUDES, BUT IS NOT LIMITED TO, AN INDIVID-
23 UAL WHO, OR AN ESTATE THAT, BRINGS AN ACTION FOR THE BODILY
24 INJURY OR DEATH.