

# HOUSE BILL No. 6139

May 28, 2002, Introduced by Reps. Gosselin and Palmer and referred to the Committee on Civil Law and the Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
(MCL 600.101 to 600.9948) by adding section 1482.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 1482. (1) IN AN ACTION FOR PERSONAL INJURY OR WRONGFUL  
2 DEATH, THE TOTAL AMOUNT OF DAMAGES FOR NONECONOMIC LOSS SHALL NOT  
3 EXCEED \$280,000.00 UNLESS THE COURT DETERMINES THAT THE CONDUCT  
4 OF 1 OR MORE OF THE DEFENDANTS CAUSE 1 OR MORE OF THE FOLLOWING,  
5 IN WHICH CASE DAMAGES FOR NONECONOMIC LOSS SHALL NOT EXCEED  
6 \$500,000.00:

7           (A) THE PLAINTIFF IS HEMIPLEGIC, PARAPLEGIC, OR QUADRIPLAGIC  
8 RESULTING IN A TOTAL PERMANENT FUNCTIONAL LOSS OF 1 OR MORE LIMBS  
9 CAUSED BY 1 OR MORE OF THE FOLLOWING:

10           (i) INJURY TO THE BRAIN.

1 (ii) INJURY TO THE SPINAL CORD.

2 (B) THE PLAINTIFF HAS PERMANENTLY IMPAIRED COGNITIVE  
3 CAPACITY RENDERING HIM OR HER INCAPABLE OF MAKING INDEPENDENT,  
4 RESPONSIBLE LIFE DECISIONS AND PERMANENTLY INCAPABLE OF INDEPEN-  
5 DENTLY PERFORMING THE ACTIVITIES OF NORMAL, DAILY LIVING.

6 (C) THE PLAINTIFF HAS SUSTAINED PERMANENT LOSS OF OR DAMAGE  
7 TO A REPRODUCTIVE ORGAN RESULTING IN THE INABILITY TO PROCREATE.

8 (2) IN AWARDING DAMAGES IN AN ACTION FOR PERSONAL INJURY OR  
9 WRONGFUL DEATH, THE TRIER OF FACT SHALL ITEMIZE DAMAGES INTO DAM-  
10 AGES FOR ECONOMIC LOSS AND DAMAGES FOR NONECONOMIC LOSS. THE  
11 COURT SHALL REDUCE AN AWARD OF DAMAGES THAT EXCEEDS THE APPLICA-  
12 BLE LIMITATION IN SUBSECTION (1) TO THE AMOUNT OF THE APPLICABLE  
13 LIMITATION. NEITHER THE COURT NOR COUNSEL FOR EITHER PARTY SHALL  
14 ADVISE THE JURY OF THE LIMITATIONS IN SUBSECTION (1).

15 (3) AS USED IN THIS SECTION, "NONECONOMIC LOSS" MEANS DAM-  
16 AGES OR LOSS DUE TO PAIN, SUFFERING, INCONVENIENCE, PHYSICAL  
17 IMPAIRMENT, PHYSICAL DISFIGUREMENT, OR OTHER NONECONOMIC LOSS.

18 (4) ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
19 THIS SECTION, THE STATE TREASURER SHALL ADJUST BOTH LIMITATIONS  
20 IN SUBSECTION (1) SO THAT THE LIMITATIONS ARE EQUAL TO THE  
21 ADJUSTED LIMITATIONS THEN IN EFFECT UNDER SECTION 1483. AFTER  
22 THAT DATE, THE STATE TREASURER SHALL ADJUST THE LIMITATIONS IN  
23 SUBSECTION (1) AT THE END OF EACH CALENDAR YEAR SO THAT THEY CON-  
24 TINUE TO BE EQUAL TO THE ADJUSTED LIMITATIONS UNDER SECTION 1483.