

# SENATE BILL No. 691

September 16, 2003, Introduced by Senators GOSCHKA, GEORGE and HARDIMAN and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2912e (MCL 600.2912e), as amended by 1993 PA 78.

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

SENATE BILL No. 691

1       Sec. 2912e. (1) In an action alleging medical malpractice,  
 2 within 21 days after the plaintiff has filed an affidavit in  
 3 compliance with section 2912d, the defendant shall file an answer  
 4 to the complaint. Subject to subsection (2), the defendant or,  
 5 if the defendant is represented by an attorney, the defendant's  
 6 attorney shall file, not later than 91 days after the plaintiff  
 7 or the plaintiff's attorney files the affidavit required under  
 8 section 2912d, an affidavit of meritorious defense signed **either**  
 9 **by the defendant or** by a health professional who the defendant's  
 10 attorney reasonably believes meets the requirements for an expert

1 witness under section 2169. ~~The~~ **If a health professional**  
2 **described in this subsection signs the affidavit, the** affidavit  
3 of meritorious defense shall certify that the health professional  
4 has reviewed the complaint and all medical records supplied to  
5 him or her by the defendant's attorney concerning the allegations  
6 contained in the complaint. ~~and~~ **An affidavit of meritorious**  
7 **defense** shall contain a statement of each of the following:

8 (a) The factual basis for each defense to the claims made  
9 against the defendant in the complaint.

10 (b) The standard of practice or care that the health  
11 professional or health facility named as a defendant in the  
12 complaint claims to be applicable to the action and that the  
13 health professional or health facility complied with that  
14 standard.

15 (c) The manner in which it is claimed by the health  
16 professional or health facility named as a defendant in the  
17 complaint that there was compliance with the applicable standard  
18 of practice or care.

19 (d) The manner in which the health professional or health  
20 facility named as a defendant in the complaint contends that the  
21 alleged injury or alleged damage to the plaintiff is not related  
22 to the care and treatment rendered.

23 (2) If the plaintiff in an action alleging medical  
24 malpractice fails to allow access to medical records as required  
25 under section ~~2912b(6)~~ **2912b**, the affidavit required under  
26 subsection (1) may be filed within 91 days after filing an answer  
27 to the complaint.