

HOUSE BILL No. 4169

February 2, 2005, Introduced by Reps. Pastor and Gosselin and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 4921 and 4969 (MCL 600.4921 and 600.4969), as added by 1986 PA 178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4921. (1) If a party ~~has rejected~~ **REJECTS** an evaluation
 2 **UNDER THIS CHAPTER** and the action proceeds to trial, that party
 3 shall pay the opposing party's actual costs unless the verdict is
 4 more favorable to the rejecting party than the ~~mediation~~
 5 evaluation. However, if the opposing party has also rejected the
 6 evaluation, that party is entitled to costs only if the verdict is
 7 more favorable to that party than the ~~mediation~~ evaluation.
 8 (2) For the purpose of subsection (1), a verdict shall be

1 adjusted by adding to it assessable costs and interest on the
2 amount of the verdict from the filing of the complaint to the date
3 of the ~~mediation~~ evaluation. After this adjustment, the verdict
4 is considered more favorable to a defendant if it is more than ~~10%~~
5 **20%** below the evaluation — and is considered more favorable to
6 the plaintiff if it is more than ~~10%~~ **20%** above the evaluation.

7 (3) For the purpose of this section, actual costs include
8 those costs taxable in any civil action and a reasonable attorney
9 fee as determined by the trial judge for services necessitated by
10 the rejection of the ~~mediation~~ evaluation.

11 (4) Costs shall not be awarded ~~if the mediation award~~ **UNDER**
12 **THIS SECTION IF THE EVALUATION** was not unanimous.

13 Sec. 4969. (1) If a party ~~has rejected~~ **REJECTS** an evaluation
14 **UNDER THIS CHAPTER** and the action proceeds to trial, that party
15 shall pay the opposing party's actual costs unless the verdict is
16 more favorable to the rejecting party than the ~~mediation~~
17 evaluation. However, if the opposing party has also rejected the
18 evaluation, that party is entitled to costs only if the verdict is
19 more favorable to that party than the ~~mediation~~ evaluation.

20 (2) For the purpose of subsection (1), a verdict shall be
21 adjusted by adding to it assessable costs and interest on the
22 amount of the verdict from the filing of the complaint to the date
23 of the ~~mediation~~ evaluation. After this adjustment, the verdict
24 is considered more favorable to a defendant if it is more than ~~10%~~
25 **20%** below the evaluation — and is considered more favorable to
26 the plaintiff if it is more than ~~10%~~ **20%** above the evaluation.

27 (3) For the purpose of this section, actual costs include

1 those costs taxable in any civil action and a reasonable attorney
2 fee as determined by the trial judge for services necessitated by
3 the rejection of the ~~mediation~~ evaluation.

4 (4) Costs shall not be awarded ~~if the mediation award~~ **UNDER**
5 **THIS SECTION IF THE EVALUATION** was not unanimous.