

# HOUSE BILL No. 5139

September 7, 2005, Introduced by Reps. McDowell, Espinoza, Gleason, Alma Smith, Condino, Adamini, Kehrl, Vagnozzi, Sak, Donigan and Wojno and referred to the Committee on Commerce.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending section 5805 (MCL 600.5805), as amended by 2002 PA 715.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5805. (1) A person shall not bring or maintain an action  
2       to recover damages for injuries to persons or property unless,  
3       after the claim first accrued to the plaintiff or to someone  
4       through whom the plaintiff claims, the action is commenced within  
5       the periods of time prescribed by this section.

6       (2) ~~The~~ **SUBJECT TO SUBSECTIONS (3) AND (4), THE** period of  
7       limitations is 2 years for an action charging assault, battery, or  
8       false imprisonment.

9       (3) The period of limitations is 5 years for an action  
10      charging assault or battery brought by a person who has been

1 assaulted or battered by his or her spouse or former spouse, an  
2 individual with whom he or she has had a child in common, or a  
3 person with whom he or she resides or formerly resided. This  
4 limitation applies to causes of action arising on or after February  
5 17, 2000 and to causes of action in which the period of limitations  
6 described in subsection (2) has not already expired as of February  
7 17, 2000.

8 (4) The period of limitations is 5 years for an action  
9 charging assault and battery brought by a person who has been  
10 assaulted or battered by an individual with whom he or she has or  
11 has had a dating relationship. This limitation applies to causes of  
12 action arising on or after January 1, 2003 and to causes of action  
13 in which the period of limitations described in subsection (2) has  
14 not already expired as of January 1, 2003.

15 (5) The period of limitations is 2 years for an action  
16 charging malicious prosecution.

17 (6) Except as otherwise provided in this chapter, the period  
18 of limitations is 2 years for an action charging malpractice.

19 (7) The period of limitations is 2 years for an action against  
20 a sheriff charging misconduct or neglect of office by the sheriff  
21 or the sheriff's deputies.

22 (8) The period of limitations is 2 years after the expiration  
23 of the year for which a constable was elected for actions based on  
24 the constable's negligence or misconduct as constable.

25 (9) The period of limitations is 1 year for an action charging  
26 libel or slander.

27 (10) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE**

1 period of limitations is 3 years after the time of the death or  
2 injury for all ~~other~~ actions to recover damages for the death of  
3 a person, or for injury to a person or property.

4 (11) The period of limitations is 5 years for an action to  
5 recover damages for injury to a person or property brought by a  
6 person who has been assaulted or battered by his or her spouse or  
7 former spouse, an individual with whom he or she has had a child in  
8 common, or a person with whom he or she resides or formerly  
9 resided. This limitation applies to causes of action arising on or  
10 after February 17, 2000 and to causes of action in which the period  
11 of limitations described in subsection (10) has not already expired  
12 as of February 17, 2000.

13 (12) The period of limitations is 5 years for an action to  
14 recover damages for injury to a person or property brought by a  
15 person who has been assaulted or battered by an individual with  
16 whom he or she has or has had a dating relationship. This  
17 limitation applies to causes of action arising on or after January  
18 1, 2003 and to causes of action in which the period of limitations  
19 described in subsection (2) has not already expired as of January  
20 1, 2003.

21 (13) The period of limitations is 3 years for a products  
22 liability action. However, in the case of a product that has been  
23 in use for not less than 10 years, the plaintiff, in proving a  
24 prima facie case, shall be required to do so without benefit of any  
25 presumption.

26 (14) THE PERIOD OF LIMITATIONS FOR A CAUSE OF ACTION BASED ON  
27 DRUG PRODUCT LIABILITY THAT WAS BARRED BY SECTION 2946(5) AND THAT

1 OTHERWISE COULD HAVE BEEN COMMENCED ON OR AFTER JANUARY 2, 1996 AND  
2 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT DELETED  
3 SECTION 2946(5) IS 3 YEARS AFTER THE EFFECTIVE DATE OF THE  
4 AMENDATORY ACT THAT DELETED SECTION 2946(5).

5 (15) ~~—(14)—~~ The period of limitations for an action against a  
6 state licensed architect, professional engineer, land surveyor, or  
7 contractor based on an improvement to real property shall be as  
8 provided in section 5839.

9 (16) ~~—(15)—~~ As used in this section, "dating relationship"  
10 means frequent, intimate associations primarily characterized by  
11 the expectation of affectional involvement. Dating relationship  
12 does not include a casual relationship or an ordinary  
13 fraternization between 2 individuals in a business or social  
14 context.

15 Enacting section 1. This amendatory act does not take effect  
16 unless Senate Bill No.\_\_\_\_ (request no. 03132'05) or House Bill No.  
17 4773 of the 93rd Legislature is enacted into law.