

# HOUSE BILL No. 5745

January 13, 2010, Introduced by Reps. Lipton, Tlaib, Smith, Constan and Polidori and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judiciary act of 1961,"  
by amending section 1483 (MCL 600.1483), as amended by 1993 PA 78.

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

1           Sec. 1483. (1) ~~In~~**SUBJECT TO SUBSECTION (5), IN** an action for  
2 damages alleging medical malpractice by or against a person or  
3 party, the total amount of damages for noneconomic loss recoverable  
4 by all plaintiffs, resulting from the negligence of all defendants,  
5 shall not exceed \$280,000.00 unless, as the result of the  
6 negligence of 1 or more of the defendants, 1 or more of the  
7 following exceptions apply as determined by the court pursuant to  
8 section 6304, in which case damages for noneconomic loss shall not  
9 exceed \$500,000.00:

10           (a) The plaintiff is hemiplegic, paraplegic, or quadriplegic

1 resulting in a total permanent functional loss of 1 or more limbs  
2 caused by 1 or more of the following:

3 (i) Injury to the brain.

4 (ii) Injury to the spinal cord.

5 (b) The plaintiff has permanently impaired cognitive capacity  
6 rendering him or her incapable of making independent, responsible  
7 life decisions and permanently incapable of independently  
8 performing the activities of normal, daily living.

9 (c) There has been permanent loss of or damage to a  
10 reproductive organ resulting in the inability to procreate.

11 (2) In awarding damages in an action alleging medical  
12 malpractice, the trier of fact shall itemize damages into damages  
13 for economic loss and damages for noneconomic loss.

14 (3) As used in this section, "noneconomic loss" means damages  
15 or loss due to pain, suffering, inconvenience, physical impairment,  
16 physical disfigurement, or other noneconomic loss.

17 (4) The state treasurer shall adjust the limitation on damages  
18 for noneconomic loss set forth in subsection (1) by an amount  
19 determined by the state treasurer at the end of each calendar year  
20 to reflect the cumulative annual percentage change in the consumer  
21 price index. As used in this subsection, "consumer price index"  
22 means the most comprehensive index of consumer prices available for  
23 this state from the bureau of labor statistics of the United States  
24 department of labor.

25 **(5) SUBSECTION (1) DOES NOT APPLY TO DAMAGES AWARDED AGAINST A**  
26 **DEFENDANT IF THE TRIER OF FACT IN THE ACTION DETERMINES BY A**  
27 **PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT OR AN INDIVIDUAL**

1 FOR WHOSE ACTIONS THE DEFENDANT IS LIABLE VIOLATED SECTION 492A OF  
2 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.492A, IN RELATION TO  
3 RECORDS DESCRIBING THE CARE OR TREATMENT AT ISSUE IN THE ACTION.