

CIVIL DAMAGES IN MEDICAL MALPRACTICE AND WRONGFUL DEATH ACTIONS

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House Bill 6085 as introduced
Sponsor: Rep. Carrie Rheingans
Committee: Judiciary
Complete to 12-4-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 6085 would amend the Revised Judicature Act to do all of the following with regard to medical malpractice civil suits:

- Increase both the general and exceptional limits on maximum damages recoverable by plaintiffs for noneconomic loss.
- Expand the circumstances under which a plaintiff can recover up to the exceptional damages limit for noneconomic loss, rather than being subject to the (lower) general damages limit.
- Provide for conditions under which neither limit applies.

Currently, the total amount of damages that may be recovered by plaintiffs for *noneconomic loss* resulting from the medical malpractice of defendants in a civil proceeding is capped at \$280,000 (the “general” damages limit), unless the malpractice resulted in one or more of the following exceptions, in which case the total is capped at \$500,000 (the “exceptional” damages limit):

- The plaintiff is hemiplegic, paraplegic, or quadriplegic resulting in a total permanent functional loss of one or more limbs caused by either or both of the following:
 - Injury to the brain.
 - Injury to the spinal cord.
- The plaintiff has permanently impaired cognitive capacity rendering them incapable of making independent, responsible life decisions and permanently incapable of independently performing the activities of normal, daily living.
- There has been permanent loss of or damage to a reproductive organ resulting in the inability to procreate.

Noneconomic loss means damages or loss due to pain, suffering, inconvenience, physical impairment, or physical disfigurement, loss of society and companionship, loss of consortium, or other noneconomic loss.

The bill would increase the general damages limit to \$1.0 million and the exceptional damages limit to \$3.0 million. In addition, the bill would newly allow for the collection of medical malpractice damages on a per plaintiff and per defendant basis. For example, an individual plaintiff suing multiple defendants could recover the maximum amounts above from each defendant, while a group of plaintiffs could each recover damages up to the maximum amounts from a single defendant.

The bill would also amend the conditions for plaintiffs to seek damages up to the exceptional damages limit (provided in the list above) by changing the current exceptions, to remove now-required causes or effects, and by adding four new exceptions. Under the bill, the exceptional damages limit would apply in the following cases:

- The plaintiff is functionally hemiplegic, paraplegic, or quadriplegic or suffers from functional loss of one or more limbs.
- The plaintiff has permanently impaired cognitive capacity or is permanently incapable of independently performing the activities of normal, daily living.
- There has been permanent loss of or damage to a reproductive organ.
- The plaintiff died.
- The plaintiff suffered permanent injury.
- The plaintiff suffered substantial disfigurement.
- The plaintiff suffered serious impairment of an important body function.

Current law does not provide for exceptions to the general and exceptional damages limitations described above. The bill would provide that neither of those limitations apply in proceedings in which the *trier of fact* (a judge or jury, as the case may be) determines by a *preponderance of the evidence*¹ that any of the following exist:

- The conduct of a defendant amounts to gross negligence, intentional conduct, fraudulent conduct, or reckless disregard for the rights of others.
- A defendant falsified, destroyed, concealed, or altered the medical records relating to the claim or conduct at issue.
- A defendant was under the influence of alcohol, drugs, or other intoxicant or stimulant relating to the claim or conduct at issue.
- A defendant has previously settled or been found liable for a claim of medical malpractice.
- A defendant fails to obtain professional liability insurance coverage.

The bill would take effect 90 days after being enacted.

MCL 600.1483

FISCAL IMPACT:

The bill would have no fiscal impact on the state but could have an indeterminate fiscal impact on local court units. The fiscal impact would depend on how provisions of the bills affected court caseloads and related administrative duties.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

¹ *Preponderance of the evidence* is an evidentiary standard that requires demonstrating that a proposition is more likely true than not true. Under this standard, the burden of proof is satisfied when the party with the burden convinces the trier of fact that there is a greater than 50% chance their claim is true. As in other civil proceedings, the plaintiff bears the burden of proof in medical malpractice suits addressed by House Bill 6085.

