

# SENATE BILL No. 1246

April 24, 2002, Introduced by Senator GOSCHKA 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:

1       Sec. 2912e. (1) In an action alleging medical malpractice,  
2 within 21 days after the plaintiff has filed an affidavit in com-  
3 pliance with section 2912d, the defendant shall file an answer to  
4 the complaint. Subject to subsection (2), the defendant or, if  
5 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

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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 profes-  
11 sional or health facility named as a defendant in the complaint  
12 claims to be applicable to the action and that the health profes-  
13 sional or health facility complied with that standard.

14 (c) The manner in which it is claimed by the health profes-  
15 sional or health facility named as a defendant in the complaint  
16 that there was compliance with the applicable standard of prac-  
17 tice or care.

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

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