

SENATE BILL No. 689

September 16, 2003, Introduced by Senators GOSCHKA, GEORGE and HARDIMAN and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2912c (MCL 600.2912c), as added by 1986 PA
178.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2912c. (1) In an action alleging medical malpractice,
2 ~~a party named as~~ a defendant ~~in the action~~ may, instead of
3 answering or otherwise pleading, file with the court an affidavit
4 certifying that he or she was not involved, either directly or
5 indirectly, in the occurrence alleged in the action. Unless the
6 affidavit is opposed ~~pursuant to~~ **as provided in** subsection (2),
7 the court shall order the dismissal of the claim ~~—, without~~
8 ~~prejudice,~~ against the affiant **without prejudice.**

9 (2) ~~Any~~ **A** party to ~~the action~~ **an action alleging medical**
10 **malpractice** may oppose the dismissal **under subsection (1)** or move

1 to vacate an order of dismissal and reinstate the party who filed
2 the affidavit if it can be shown that the party filing the
3 affidavit was involved in the occurrence alleged in the action.
4 Reinstatement of a party to the action under this subdivision
5 ~~shall~~ **is** not ~~be~~ barred by ~~any~~ **a** statute of limitations
6 defense that was not valid at the time the action was originally
7 commenced against the affiant. The opposing party may obtain
8 discovery regarding the involvement or noninvolvement of the
9 party filing the affidavit. The discovery shall be completed
10 within 90 days after the date the affidavit is filed.

11 (3) The court shall dismiss a claim in an action alleging
12 medical malpractice brought against an emergency physician who is
13 board certified in emergency medicine if all of the following
14 apply:

15 (a) The claim is not based on medical care provided by the
16 emergency physician.

17 (b) The claim is based on medical care provided by another
18 health professional who has privileges with, is employed by, or
19 is under contract with the health facility to which the plaintiff
20 was admitted.

21 (c) The only connection between the alleged medical
22 malpractice and the emergency physician is that the emergency
23 physician recommended the plaintiff's admission to the health
24 facility.