

**SUBSTITUTE FOR  
SENATE BILL NO. 319**

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending section 6304 (MCL 600.6304), as amended by 1995 PA  
249, and by adding section 1484.

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

1        SEC. 1484. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-  
2        TION, THE TOTAL AMOUNT OF DAMAGES FOR NONECONOMIC LOSS RECOVER-  
3        ABLE BY EACH PLAINTIFF AGAINST A GOVERNMENTAL AGENCY FOR BODILY  
4        INJURY OR PROPERTY DAMAGE RESULTING FROM THE NEGLIGENT OPERATION  
5        OF A LAW ENFORCEMENT VEHICLE SHALL NOT EXCEED \$280,000.00, UNLESS  
6        THE NEGLIGENT OPERATION OF A LAW ENFORCEMENT VEHICLE CAUSED  
7        EITHER A PERSON'S DEATH OR PERMANENT LOSS OF A VITAL BODILY FUNC-  
8        TION, IN WHICH CASE THE TOTAL AMOUNT OF DAMAGES FOR NONECONOMIC  
9        LOSS SHALL NOT EXCEED \$500,000.00, IF EACH OF THE FOLLOWING  
10        CONDITIONS IS MET:

**SB 319, As Passed Senate, March 18, 1999**

Senate Bill No. 319 as amended March 16 and 18, 1999

2

1 (A) AT THE TIME OF THE OCCURRENCE THAT RESULTED IN THE  
2 BODILY INJURY OR PROPERTY DAMAGE, THE GOVERNMENTAL AGENCY EITHER  
3 ADOPTED THE MODEL POLICY DEVELOPED BY THE COMMISSION OR HAD IN  
4 EFFECT A LAW ENFORCEMENT VEHICLE PURSUIT AND RESPONSE POLICY CER-  
5 TIFIED UNDER THE LAW ENFORCEMENT PURSUIT AND RESPONSE POLICY  
6 ACT.

6 (B) AT THE TIME OF THE OCCURRENCE THAT RESULTED IN THE  
7 BODILY INJURY OR PROPERTY DAMAGE, THE LAW ENFORCEMENT VEHICLE WAS  
8 ENGAGED IN LAW ENFORCEMENT PURSUIT AND RESPONSE.

9 (C) THE LAW ENFORCEMENT VEHICLE OPERATOR WAS CERTIFIED BY  
10 THE GOVERNMENTAL AGENCY AS MEETING THE MINIMUM REQUIREMENTS  
11 ESTABLISHED FOR LAW ENFORCEMENT VEHICLE OPERATORS UNDER THE LAW  
12 ENFORCEMENT PURSUIT AND RESPONSE POLICY ACT, AND THAT CERTIFICA-  
13 TION WAS IN EFFECT AT THE TIME OF THE OCCURRENCE THAT RESULTED IN  
14 THE BODILY INJURY OR PROPERTY DAMAGE.

15 (D) DURING THE OCCURRENCE, THE LAW ENFORCEMENT VEHICLE OPER-  
16 ATOR WAS IN SUBSTANTIAL COMPLIANCE WITH THE LAW ENFORCEMENT PUR-  
17 SUIT AND RESPONSE POLICY ADOPTED BY THE GOVERNMENTAL AGENCY.

18 (2) AN INDIVIDUAL WHO SUSTAINS BODILY INJURY OR PROPERTY  
19 DAMAGE ARISING FROM A LAW ENFORCEMENT PURSUIT AND RESPONSE SHALL  
20 NOT RECOVER MONEY DAMAGES FROM ANY PERSON FOR THAT BODILY INJURY  
21 OR PROPERTY DAMAGE, IF THAT INDIVIDUAL WAS AN OCCUPANT OF A VEHICLE  
22 BEING DRIVEN IN VIOLATION OF SECTION 479A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
23 750.479A, OR SECTION 602A OF THE MICHIGAN VEHICLE CODE, 1949 PA  
24 300, MCL 257.602A, AT THE TIME OF THE OCCURRENCE GIVING RISE TO  
25 THE BODILY INJURY OR PROPERTY DAMAGE. THIS SUBSECTION SHALL NOT BE  
26 CONSTRUED AS AFFECTING AN INNOCENT OCCUPANT'S RIGHT TO RECOVER MONEY  
DAMAGES FOR BODILY INJURY OR PROPERTY DAMAGE FROM ANOTHER OCCUPANT  
WHO WAS ACTING IN VIOLATION OF THE LAW. AS USED IN THIS SUBSEC-  
TION, "PERSON" INCLUDES AN INDIVIDUAL, ASSOCIATION, PARTNERSHIP,

**SB 319, As Passed Senate, March 18, 1999**

Senate Bill No. 319 as amended March 18, 1999

3

1 CORPORATION, UNIT OF GOVERNMENT, GOVERNMENTAL AGENCY, OR ANY  
2 OTHER LEGAL ENTITY.

3 (3) THE LIMITATION OF LIABILITY PRESCRIBED BY SUBSECTION (1)  
4 DOES NOT APPLY IF THE TRIER OF FACT DETERMINES THAT THE BODILY  
5 INJURY OR PROPERTY DAMAGE RESULTED FROM A GOVERNMENTAL AGENCY'S  
6 GROSS NEGLIGENCE.

7 (4) ALL OF THE FOLLOWING ISSUES ARE QUES-  
8 TIONS OF LAW AND MAY BE DECIDED BY THE COURT UPON THE MOTION OF A  
9 PARTY AT ANY TIME BEFORE ENTRY OF JUDGMENT:

10 (A) WHETHER, AT THE TIME OF THE OCCURRENCE THAT RESULTED IN  
11 THE BODILY INJURY OR PROPERTY DAMAGE, THE GOVERNMENTAL AGENCY HAD  
12 EITHER ADOPTED THE MODEL POLICY DEVELOPED BY THE COMMISSION OR HAD  
13 IN EFFECT A LAW ENFORCEMENT PURSUIT AND RESPONSE POLICY CERTIFIED  
14 UNDER THE LAW ENFORCEMENT PURSUIT AND RESPONSE POLICY ACT.

15 (B) WHETHER, AT THE TIME OF THE OCCURRENCE THAT RESULTED IN  
16 THE BODILY INJURY OR PROPERTY DAMAGE, THE LAW ENFORCEMENT VEHICLE  
17 WAS ENGAGED IN A LAW ENFORCEMENT PURSUIT AND RESPONSE.

18 (C) WHETHER, AT THE TIME OF THE OCCURRENCE THAT RESULTED IN  
19 THE BODILY INJURY OR PROPERTY DAMAGE, THE LAW ENFORCEMENT VEHICLE  
20 OPERATOR WAS CERTIFIED BY THE GOVERNMENTAL AGENCY AS MEETING MIN-  
21 IMUM REQUIREMENTS ESTABLISHED FOR LAW ENFORCEMENT VEHICLE OPERA-  
22 TORS UNDER THE LAW ENFORCEMENT PURSUIT AND RESPONSE POLICY ACT.

23 (D) WHETHER, AT THE TIME OF THE OCCURRENCE THAT RESULTED IN  
24 THE BODILY INJURY OR PROPERTY DAMAGE, THE LAW ENFORCEMENT VEHICLE  
25 OPERATOR WAS IN SUBSTANTIAL COMPLIANCE WITH THE LAW ENFORCEMENT  
26 PURSUIT AND RESPONSE POLICY ADOPTED BY THE GOVERNMENTAL AGENCY.

27 (E) WHETHER THE BODILY INJURY OR PROPERTY DAMAGE SUSTAINED BY  
THE INDIVIDUAL DESCRIBED IN SUBSECTION (2) AROSE FROM A LAW  
ENFORCEMENT PURSUIT AND RESPONSE, AND WHETHER THE INDIVIDUAL WAS THE

**SB 319, As Passed Senate, March 18, 1999**

Senate Bill No. 319 as amended March 18, 1999

4

1 OCCUPANT OF A VEHICLE BEING DRIVEN IN VIOLATION OF A LAW IDENTIFIED  
2 IN SUBSECTION (2) AT THE TIME OF THE OCCURRENCE GIVING RISE TO THE  
3 BODILY INJURY OR PROPERTY DAMAGE.

4 (5) ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
5 THIS SECTION, THE STATE TREASURER SHALL ADJUST THE LIMITATIONS  
6 SET FORTH IN SUBSECTION (1) SO THAT THE LIMITATIONS ARE EQUAL TO  
7 THE LIMITATIONS PROVIDED IN SECTION 1483. AFTER THAT DATE, THE  
8 STATE TREASURER SHALL ADJUST THE LIMITATIONS SET FORTH IN  
9 SUBSECTION (1) AT THE END OF EACH CALENDAR YEAR SO THAT THEY CON-  
10 TINUE TO BE EQUAL TO THE LIMITATIONS PROVIDED IN SECTION 1483.

11 (6) IN AN ACTION DESCRIBED IN SUBSECTION (1) AGAINST 2 OR  
12 MORE GOVERNMENTAL AGENCIES, THE TOTAL AMOUNT OF DAMAGES FOR NON-  
13 ECONOMIC LOSS RECOVERABLE BY EACH PLAINTIFF AGAINST ALL OF THE  
14 GOVERNMENTAL AGENCIES TO WHICH THE LIMITATION OF LIABILITY PRO-  
15 VIDED UNDER SUBSECTION (1) APPLIES SHALL NOT EXCEED THE TOTAL  
16 AMOUNT PERMITTED UNDER SUBSECTION (1), AS ADJUSTED UNDER  
17 SUBSECTION (4).

18 (7) IN AWARDING DAMAGES IN AN ACTION DESCRIBED IN SUBSECTION  
19 (1), THE TRIER OF FACT SHALL ITEMIZE THE AMOUNT OF DAMAGES  
20 AWARDED FOR ECONOMIC LOSS AND THE AMOUNT OF DAMAGES AWARDED FOR  
21 NONECONOMIC LOSS.

22 (8) AS USED IN THIS SECTION:

23 (A) "CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE  
24 INDEX OF CONSUMER PRICES AVAILABLE FOR THIS STATE FROM THE BUREAU  
25 OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.

**SB 319, As Passed Senate, March 18, 1999**

Senate Bill No. 319

5

1 (B) "LAW ENFORCEMENT PURSUIT AND RESPONSE" MEANS THAT TERM  
2 AS DEFINED IN SECTION 2 OF THE LAW ENFORCEMENT PURSUIT AND  
3 RESPONSE POLICY ACT.

4 (C) "LAW ENFORCEMENT VEHICLE" MEANS THAT TERM AS DEFINED IN  
5 SECTION 2 OF THE LAW ENFORCEMENT PURSUIT AND RESPONSE POLICY  
6 ACT.

7 (D) "GOVERNMENTAL AGENCY" MEANS THAT TERM AS DEFINED IN  
8 SECTION 1 OF 1964 PA 170, MCL 691.1401, AND INCLUDES AN EMPLOYEE  
9 OR AGENT OF A GOVERNMENTAL AGENCY, ACTING WITHIN THE SCOPE OF HIS  
10 OR HER EMPLOYMENT OR AGENCY.

11 (E) "GROSS NEGLIGENCE" MEANS THAT TERM AS DEFINED IN  
12 SECTION 7 OF 1964 PA 170, MCL 691.1407.

13 (F) "NONECONOMIC LOSS" MEANS THAT TERM AS DEFINED IN  
14 SECTION 1483. NONECONOMIC LOSS DOES NOT INCLUDE THE VALUE OF  
15 HOMEMAKING SERVICES OR THE CARE OF DEPENDENT FAMILY MEMBERS.

16 Sec. 6304. (1) In an action based on tort or another legal  
17 theory seeking damages for personal injury, property damage, or  
18 wrongful death involving fault of more than 1 person, including  
19 third-party defendants and nonparties, the court, unless other-  
20 wise agreed by all parties to the action, shall instruct the jury  
21 to answer special interrogatories or, if there is no jury, shall  
22 make findings indicating both of the following:

23 (a) The total amount of each plaintiff's damages.

24 (b) The percentage of the total fault of all persons that  
25 contributed to the death or injury, including each plaintiff and  
26 each person released from liability under section 2925d,

**SB 319, As Passed Senate, March 18, 1999**

Senate Bill No. 319

6

1 regardless of whether the person was or could have been named as  
2 a party to the action.

3 (2) In determining the percentages of fault under subsection  
4 (1)(b), the trier of fact shall consider both the nature of the  
5 conduct of each person at fault and the extent of the causal  
6 relation between the conduct and the damages claimed.

7 (3) The court shall determine the award of damages to each  
8 plaintiff in accordance with the findings under subsection (1),  
9 subject to any reduction under subsection (5) or section 2955a or  
10 6303, and shall enter judgment against each party, including a  
11 third-party defendant, except that judgment shall not be entered  
12 against a person who has been released from liability as provided  
13 in section 2925d.

14 (4) Liability in an action to which this section applies is  
15 several only and not joint. Except as otherwise provided in sub-  
16 section (6), a person shall not be required to pay damages in an  
17 amount greater than his or her percentage of fault as found under  
18 subsection (1). This subsection and section 2956 do not apply to  
19 a defendant that is jointly and severally liable under section  
20 6312.

21 (5) In an action alleging medical malpractice, the court  
22 shall reduce an award of damages in excess of 1 of the limita-  
23 tions set forth in section 1483 to the amount of the appropriate  
24 limitation set forth in section 1483. The jury shall not be  
25 advised by the court or by counsel for either party of the limi-  
26 tations set forth in section 1483 or any other provision of  
27 section 1483.

**SB 319, As Passed Senate, March 18, 1999**

Senate Bill No. 319

7

1           (6) If an action includes a medical malpractice claim  
2 against a person or entity described in section 5838a(1), 1 of  
3 the following applies:

4           (a) If the plaintiff is determined to be without fault under  
5 subsections (1) and (2), the liability of each defendant is joint  
6 and several, whether or not the defendant is a person or entity  
7 described in section 5838a(1).

8           (b) If the plaintiff is determined to have fault under sub-  
9 sections (1) and (2), upon motion made not later than 6 months  
10 after a final judgment is entered, the court shall determine  
11 whether all or part of a party's share of the obligation is  
12 uncollectible from that party, and shall reallocate any uncol-  
13 lectible amount among the other parties, whether or not another  
14 party is a person or entity described in section 5838a(1),  
15 according to their respective percentages of fault as determined  
16 under subsection (1). A party is not required to pay a percen-  
17 tage of any uncollectible amount that exceeds that party's per-  
18 centage of fault as determined under subsection (1). The party  
19 whose liability is reallocated continues to be subject to contri-  
20 bution and to any continuing liability to the plaintiff on the  
21 judgment.

22           (7) Notwithstanding subsection (6), a governmental agency,  
23 other than a governmental hospital or medical care facility, is  
24 not required to pay a percentage of any uncollectible amount that  
25 exceeds the governmental agency's percentage of fault as deter-  
26 mined under subsection (1).

**SB 319, As Passed Senate, March 18, 1999**

Senate Bill No. 319

8

1           (8) THE COURT SHALL REDUCE AN AWARD OF DAMAGES IN EXCESS OF  
2 THE LIMITATION SET FORTH IN SECTION 1484. THE JURY SHALL NOT BE  
3 ADVISED BY THE COURT OR BY COUNSEL FOR EITHER PARTY OF THE LIMI-  
4 TATION SET FORTH IN SECTION 1484.

5           (9) ~~—(8)—~~ As used in this section, "fault" includes an act,  
6 an omission, conduct, including intentional conduct, a breach of  
7 warranty, or a breach of a legal duty, or any conduct that could  
8 give rise to the imposition of strict liability, that is a proxi-  
9 mate cause of damage sustained by a party.

10           Enacting section 1. This amendatory act does not take  
11 effect unless Senate Bill No. 320 of the 90th Legislature is  
12 enacted into law.