



# HOUSE BILL No. 5232

January 25, 2000, Introduced by Reps. Howell, Godchaux, Van Woerkom, Ehardt, Richner, Mortimer, Patterson, Hart, Julian, Bishop, Kuipers, Garcia, Kowall, Allen, Vear, Caul, Bisbee and Birkholz and referred to the Committee on Family and Civil Law.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
(MCL 600.101 to 600.9948) by adding section 2955b.

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

1 SEC. 2955B. (1) AS USED IN THIS SECTION:

2 (A) "CIVIL ACTION BY A PERPETRATOR" MEANS A CIVIL ACTION FOR  
3 DAMAGES FOR A PERPETRATOR'S PERSONAL INJURY OR DEATH, WHICH  
4 INJURY OR DEATH OCCURRED DURING EITHER OF THE FOLLOWING:

5 (i) THE COMMISSION OF OR IMMEDIATE FLIGHT FROM THE FELONY.

6 (ii) THE COMMISSION OF OR IMMEDIATE FLIGHT FROM THE ACTS  
7 THAT COULD RESULT IN A CONVICTION OR DETERMINATION OF RESPONSI-  
8 BILITY FOR A FELONY.

9 (B) "FELONY" MEANS A VIOLATION OF A LAW OF THIS STATE OR OF  
10 THE UNITED STATES THAT IS DESIGNATED AS A FELONY OR THAT IS  
11 PUNISHABLE BY DEATH OR IMPRISONMENT FOR MORE THAN 1 YEAR.

1 (C) "ITEMIZED CRIME" MEANS ANY OF THE FOLLOWING:

2 (i) A VIOLATION OF SECTION 72, 73, 83, 84, 86, 89, 91, 110,  
3 110A, 145C, 316, 317, 349, 350, 397, 520B, 529, 529A, OR 531 OF  
4 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.72, 750.73, 750.83,  
5 750.84, 750.86, 750.89, 750.91, 750.110, 750.110A, 750.145C,  
6 750.316, 750.317, 750.349, 750.350, 750.397, 750.520B, 750.529,  
7 750.529A, AND 750.531.

8 (ii) A VIOLATION OF SECTION 7401(2)(A)(i) OR 7403(2)(A)(i)  
9 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7401 AND  
10 333.7403.

11 (iii) A VIOLATION OF A LAW OF THE UNITED STATES THAT IS SUB-  
12 STANTIALY SIMILAR TO A VIOLATION DESCRIBED IN SUBPARAGRAPH (i)  
13 OR (ii).

14 (iv) AN ATTEMPT TO COMMIT A VIOLATION DESCRIBED IN SUBPARA-  
15 GRAPH (i), (ii), OR (iii).

16 (v) CONSPIRACY TO COMMIT A VIOLATION DESCRIBED IN SUBPARA-  
17 GRAPH (i), (ii), OR (iii).

18 (vi) SOLICITATION TO COMMIT A VIOLATION DESCRIBED IN SUB-  
19 PARAGRAPH (i), (ii), OR (iii).

20 (D) "PERPETRATOR" MEANS AN INDIVIDUAL WHO IS CONVICTED OF A  
21 FELONY; WHO IS DETERMINED TO BE RESPONSIBLE FOR A FELONY UNDER  
22 CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1  
23 TO 712A.32; OR WHO HAS COMMITTED ACTS THAT COULD RESULT IN A CON-  
24 VICTION OR A DETERMINATION OF RESPONSIBILITY FOR A FELONY.

25 (2) THE COURT SHALL DISMISS A CIVIL ACTION BY A PERPETRATOR  
26 WITH PREJUDICE AND AWARD COSTS AND ACTUAL ATTORNEY FEES TO EACH

1 DEFENDANT IF THE COURT DETERMINES AS A MATTER OF LAW THAT 1 OR  
2 MORE OF THE FOLLOWING ARE TRUE:

3 (A) THE CONVICTION OR DETERMINATION OF RESPONSIBILITY OF THE  
4 PERPETRATOR IS FOR AN ITEMIZED CRIME.

5 (B) THE CONVICTION OR DETERMINATION OF RESPONSIBILITY OF THE  
6 PERPETRATOR IS FOR A FELONY OTHER THAN AN ITEMIZED CRIME. IF THE  
7 PERPETRATOR'S INJURY OR DEATH RESULTED FROM PHYSICAL FORCE, THE  
8 COURT SHALL NOT DISMISS AN ACTION AS PROVIDED IN THIS SUBDIVISION  
9 UNLESS THE COURT ALSO FINDS THAT THE PERSON WHO CAUSED THE INJURY  
10 OR DEATH ACTED IN EITHER OF THE FOLLOWING MANNERS:

11 (i) UNDER A REASONABLE BELIEF THAT PHYSICAL FORCE WAS REA-  
12 SONABLE AND APPROPRIATE TO PREVENT INJURY TO HIMSELF OR HERSELF,  
13 OR TO OTHERS, USING A DEGREE OF FORCE THAT THE PERSON REASONABLY  
14 BELIEVED NECESSARY FOR THAT PURPOSE.

15 (ii) UNDER A REASONABLE BELIEF THAT PHYSICAL FORCE WAS REA-  
16 SONABLE AND APPROPRIATE TO PREVENT THE COMMISSION OF A FELONY,  
17 USING A DEGREE OF FORCE THAT THE PERSON REASONABLY BELIEVED NEC-  
18 ESSARY FOR THAT PURPOSE.

19 (C) THE PERPETRATOR HAS NOT BEEN CONVICTED OF OR DETERMINED  
20 TO BE RESPONSIBLE FOR A FELONY; A DEFENDANT ALLEGES THAT THE  
21 PLAINTIFF IS A PERPETRATOR; AND IN THE CIVIL ACTION BY THE PERPE-  
22 TRATOR, THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE  
23 THAT THE PERPETRATOR COMMITTED ACTS THAT ARE THE ELEMENTS OF A  
24 FELONY. IF THE PERPETRATOR'S INJURY OR DEATH RESULTED FROM PHYS-  
25 ICAL FORCE, THE COURT SHALL NOT DISMISS AN ACTION AS PROVIDED IN  
26 THIS SUBDIVISION UNLESS THE COURT ALSO FINDS THAT THE PERSON WHO

1 CAUSED THE INJURY OR DEATH ACTED IN EITHER OF THE FOLLOWING  
2 MANNERS:

3 (i) UNDER A REASONABLE BELIEF THAT PHYSICAL FORCE WAS REA-  
4 SONABLE AND APPROPRIATE TO PREVENT INJURY TO HIMSELF OR HERSELF,  
5 OR TO OTHERS, USING A DEGREE OF FORCE THAT THE PERSON REASONABLY  
6 BELIEVED NECESSARY FOR THAT PURPOSE.

7 (ii) UNDER A REASONABLE BELIEF THAT PHYSICAL FORCE WAS REA-  
8 SONABLE AND APPROPRIATE TO PREVENT THE COMMISSION OF A FELONY,  
9 USING A DEGREE OF FORCE THAT THE PERSON REASONABLY BELIEVED NEC-  
10 ESSARY FOR THAT PURPOSE.

11 (3) IF A PLAINTIFF IN A CIVIL ACTION IS CHARGED WITH A  
12 FELONY OR A PETITION IS FILED ALLEGING THE PLAINTIFF IS RESPONSI-  
13 BLE FOR A FELONY AND WITHIN THE COURT'S JURISDICTION UNDER CHAP-  
14 TER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1 TO  
15 712A.32, THE COURT SHALL STAY THE CIVIL ACTION IN REGARD TO THAT  
16 PLAINTIFF UNTIL THE FINAL DISPOSITION OF THE FELONY CASE, INCLUD-  
17 ING APPEALS, IF BOTH OF THE FOLLOWING TAKE PLACE:

18 (A) A DEFENDANT MOVES TO DISMISS THE CIVIL ACTION IN REGARD  
19 TO THAT PLAINTIFF AS A CIVIL ACTION BY A PERPETRATOR.

20 (B) THE COURT FINDS PROBABLE CAUSE TO BELIEVE THAT THE CIVIL  
21 ACTION IN REGARD TO THAT PLAINTIFF IS A CIVIL ACTION BY A  
22 PERPETRATOR.