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BILL ANALYSIS

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Senate Bill 633 (as introduced 7-16-03)  
Sponsor: Senator Alan L. Cropsey  
Committee: Judiciary

Date Completed: 10-7-03

### **CONTENT**

**The bill would amend the Revised Judicature Act (RJA) to allow a medical malpractice plaintiff, including a living plaintiff, to recover for loss of an opportunity to survive or an opportunity to achieve a better result, in proportion to the loss proximately caused by the alleged malpractice.**

Currently, the RJA prohibits recovery for loss of an opportunity to survive or an opportunity to achieve a better result unless the opportunity was greater than 50%. The bill would allow such a claim, regardless of the percentage of the lost opportunity. Under the bill, a plaintiff could recover economic and noneconomic damages in proportion to the loss of opportunity to survive or achieve a better result that was proximately caused in whole or in part by the alleged malpractice.

The RJA provides that, in a medical malpractice action, the plaintiff has the burden of proving that he or she suffered an injury that more probably than not was proximately caused by the defendant's negligence. Under the bill, the plaintiff would have the burden of proving that he or she suffered such an injury, or would suffer such an injury in the future.

MCL 600.2912a

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government.

To the extent that public agencies and employees are not covered by governmental immunity, State and local units of government could incur additional costs if the bill would increase exposure to liability for health care professionals employed or contracted by units of government in medical malpractice cases.

Fiscal Analyst: Bethany Wicksall

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