

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.5851 Disabilities of infancy or insanity; tacking of successive disabilities prohibited; year of grace; removing disability of infancy; claim alleging medical malpractice accruing to person 8 years old or less or 13 years old or less; disability of imprisonment; “release from imprisonment” defined.

Sec. 5851. (1) Except as otherwise provided in subsections (7) and (8), if the person first entitled to make an entry or bring an action under this act is under 18 years of age or insane at the time the claim accrues, the person or those claiming under the person shall have 1 year after the disability is removed through death or otherwise, to make the entry or bring the action although the period of limitations has run. This section does not lessen the time provided for in section 5852.

(2) The term insane as employed in this chapter means a condition of mental derangement such as to prevent the sufferer from comprehending rights he or she is otherwise bound to know and is not dependent on whether or not the person has been judicially declared to be insane.

(3) To be considered a disability, the infancy or insanity must exist at the time the claim accrues. If the disability comes into existence after the claim has accrued, a court shall not recognize the disability under this section for the purpose of modifying the period of limitations.

(4) A person shall not tack successive disabilities. A court shall recognize only those disabilities that exist at the time the claim first accrues and that disable the person to whom the claim first accrues for the purpose of modifying the period of limitations.

(5) A court shall recognize both of the disabilities of infancy or insanity that disable the person to whom the claim first accrues at the time the claim first accrues. A court shall count the year of grace provided in this section from the termination of the last disability to the person to whom the claim originally accrued that has continued from the time the claim accrued, whether this disability terminates because of the death of the person disabled or for some other reason.

(6) With respect to a claim accruing before the effective date of the age of majority act of 1971, Act No. 79 of the Public Acts of 1971, being sections 722.51 to 722.55 of the Michigan Compiled Laws, the disability of infancy is removed as of the effective date of Act No. 79 of the Public Acts of 1971, as to persons who were at least 18 years of age but less than 21 years of age on January 1, 1972, and is removed as of the eighteenth birthday of a person who was under 18 years of age on January 1, 1972.

(7) Except as otherwise provided in subsection (8), if, at the time a claim alleging medical malpractice accrues to a person under section 5838a the person has not reached his or her eighth birthday, a person shall not bring an action based on the claim unless the action is commenced on or before the person's tenth birthday or within the period of limitations set forth in section 5838a, whichever is later. If, at the time a claim alleging medical malpractice accrues to a person under section 5838a, the person has reached his or her eighth birthday, he or she is subject to the period of limitations set forth in section 5838a.

(8) If, at the time a claim alleging medical malpractice accrues to a person under section 5838a, the person has not reached his or her thirteenth birthday and if the claim involves an injury to the person's reproductive system, a person shall not bring an action based on the claim unless the action is commenced on or before the person's fifteenth birthday or within the period of limitations set forth in section 5838a, whichever is later. If, at the time a claim alleging medical malpractice accrues to a person under section 5838a, the person has reached his or her thirteenth birthday and the claim involves an injury to the person's reproductive system, he or she is subject to the period of limitations set forth in section 5838a.

(9) If a person was serving a term of imprisonment on the effective date of the 1993 amendatory act that added this subsection, and that person has a cause of action to which the disability of imprisonment would have been applicable under the former provisions of this section, an entry may be made or an action may be brought under this act for that cause of action within 1 year after the effective date of the 1993 amendatory act that added this subsection, or within any other applicable period of limitation provided by law.

(10) If a person died or was released from imprisonment at any time within the period of 1 year preceding the effective date of the 1993 amendatory act that added this subsection, and that person had a cause of action to which the disability of imprisonment would have been applicable under the former provisions of this section on the date of his or her death or release from imprisonment, an entry may be made or an action may be brought under this act for that cause of action within 1 year after the date of his or her death or release from imprisonment, or within any other applicable period of limitation provided by law.

(11) As used in this section, “release from imprisonment” means either of the following:

(a) A final release or discharge from imprisonment in a county jail.

(b) Release on parole or a final release or discharge from imprisonment in a state or federal correctional facility.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1972, Act 87, Imd. Eff. Mar. 20, 1972;—Am. 1986, Act 178, Eff. Oct. 1, 1986;—Am. 1993, Act 78, Eff. Apr. 1, 1994;—Am. 1993, Act 283, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 178 of 1986 provides:

“(1) Sections 2925b, 5805, 5838, and 5851 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to causes of action arising before October 1, 1986.

“(2) Sections 1483, 5838a, and 6304 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to causes of action arising on or after October 1, 1986.

“(3) Sections 1629, 1653, 2169, 2591, 2912c, 2912d, 2912e, 6098, 6301, 6303, 6305, 6306, 6307, 6309, and 6311 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after October 1, 1986.

“(4) Sections 1651 and 6013 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, shall not apply to cases filed before October 1, 1986.

“(5) Chapter 49 of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed on or after January 1, 1987.

“(6) Chapter 49a of Act No. 236 of the Public Acts of 1961, as added by this amendatory act, shall apply to cases filed in judicial circuits which are comprised of more than 1 county on or after July 1, 1990 and shall apply to cases filed in judicial circuits which are comprised of 1 county on or after October 1, 1988.”