

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE LIMITATION ON THE AMOUNT OF
5 NONECONOMIC DAMAGES RECOVERABLE IN MEDICAL MALPRACTICE CASES; AMENDING SECTION
6 25-9-412, MCA; AND REPEALING SECTION 25-9-411, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 25-9-412, MCA, is amended to read:

11 **"25-9-412. Periodic payment of future damages in medical malpractice cases.** (1) A party to an
12 action for a malpractice claim, ~~as defined in 25-9-411,~~ in which \$50,000 or more of future damages is
13 awarded may, prior to the entry of judgment, request the court to enter a judgment ordering future
14 damages to be paid in whole or in part by periodic payments rather than by a lump-sum payment. Upon
15 a request, the court shall enter an order for periodic payment of future damages. The total dollar amount
16 of the ordered periodic payments must equal the total dollar amount of the future damages without a
17 reduction to present value.

18 (2) A court ordering the payment of future damages by periodic payments shall make specific
19 findings as to the dollar amount of periodic payments needed to compensate the judgment creditor for
20 future damages.

21 (3) The judgment order must specify the recipient or recipients of periodic payments, the dollar
22 amount of the payments, the interval between payments, and the number of payments or the period of
23 time over which payments must be made.

24 (4) The court shall order that periodic payment of future damages be made, during the life of the
25 judgment creditor or during the continuance of the compensable injury or disability of the judgment
26 creditor, through the purchase of an inflation-indexed annuity approved by the court. The annuity must
27 be in the form of an inflation-indexed annuity contract purchased from a qualified insurer that, in the most
28 recent edition of A.M. Best, has an "A" (excellent) or higher rating and is in a class 7 or higher
29 classification. The annuity also serves as any required supersedeas bond. Upon purchase of a
30 court-approved annuity, the court shall order that the judgment is satisfied and that the judgment debtor

1 is discharged. If the judgment creditor dies before all periodic payments have been made, the remaining
2 payments become the property of the creditor's estate.

3 (5) As used in this section, "malpractice claim" means a claim based on a negligent act or
4 omission by a health care provider in the rendering of professional services that is the proximate cause of
5 a personal injury or wrongful death."

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7 NEW SECTION. Section 2. Repealer. Section 25-9-411, MCA, is repealed.

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