# Liability reform requires big package of bills

The problem is easy to state: a mushrooming of lawsuits against medical
practitioners, governmental units and
taverns.

But the repair job will be tough for
the Michigan Legislature. "We could
have as many as 30-some bills," said
state Sen. Parick McCollough, D-Pearborn, who wrestled with it as a memher of the salest committee on civil unber of the select committee on civil jus-

ber of the select communes on a raing-tice reform.

"You don't put everything in one bill," said McCollough, whose district includes Garden City. "We need to focus attention on subject matter. There should be no linger-pointing at

FINGER-POINTING there is, however. It seems to be lawyers vs. the world, particularly the health care and insurance industries. Next Tuesday five busloads of pro-testers will debark from St. Mary Hos-

ers.

1. See Senate committee worked quickly, issuing its report Sept. 26 (see other story on this page).

A House committee is due to recommend a series of reforms by the end of the month.

A nouse comment as earlies of reforms by the end of the month. Gov. James J. Blanchard waited un-till Sept. 25 to announce his appoint-ment of former University of Michigan President Robben W. Fleming as a spe-cial fact (Inder on medical malpractice insurance.

OF ALL the proposed reforms, one

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inguisters and rally on the State Lapic (State Lapic College C

generous, Honigman says, "The community, through the jury, exercises its best judgment. The only people who polices the professions are lajured persons, through their sitorneys." I plan to support the Senate package," said Sen. R. Robert Geake, R. Northville, whose district includes Canlon, Livonia, Plymouth and Redford. "It puts limits on non-financial damages in medical malpractice suits. There have been extremely high awards from juries in Wayne County. And everyone is suing clies and townships at the drop of a bat."

western Michigan.
Another attorney-legislator, Rep.
David Honighman, R.West Bloomfield,
also is cool toward capping non-economic damages, even though he was a
defense lawyer for corporations in
product liability cases.
"There were only 12 judgments in
the state over \$1 million. In 1982 the
median settlement was \$3,000 before a
trial and \$13,000 during a trial," said
Honigman.
Far from considering juries overly

Of all the proposed reforms, one could be in trouble: proposed limits on jury awards for non-economic damages (pain, suffering, disfigurement, inconvenience).

"Insurance companies can't predict tow much to hold in reserve (for median) practices suits). The statute of McGollough supports limits on highway department insurers some predictability."

He is particularly happy the panel supports his idea of modifying the "colarist and some "rule," its recommendation is that compensation from judgments be reduced by the amount of third-party payments (such as insurers so that an injured person can't recover twice.

GOVERNMENTAL liability sults have brought less emotional publicity median medical malpractice cases, when the proprietary "or business-type functions. And it would grant immunity to deverted membrane for supplied the proprietary or business-type functions. And it would grant immunity to make the proprietary or business-type functions. And it would grant immunity to make the proprietary or business-type functions. And it would grant immunity to make the proprietary or business-type functions. And it would grant immunity to make the proprietary or business type functions are not growly than medical malpractice cases,

## How Senate would limit liability suits

OCT. 31-NOV. 13

Three problem areas were addressed by the Senate Select Committee on Civil Justice Reform—medical malpractice, governmental liability and dram shop (tavern) liability.

"Liability has reached epidemic proportions and preents an emergency situation," the senators said. Doctors are ceasing baby deliveries, state and local governments face lawsuits that could absorb half or more of their annual budgets, bars and restaurants have closed up or are "going bare" — carrying no insurance.

Six reform proposals apply to all areas. Other proposals apply to individual areas.

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THE REFORM'S applying to all areas include:
1) In cases where there are multiple defendants,
limit the liability of one to the degree of fault—
not force the one with the "deepest pockets" to pay
the full judgment.
2) Deduct payments by a "collateral source,"
such as insurance or social security, from court
judgments. This would prevent an injured person
from collecting twice.
3) Limit non-economic losses (so-called "pain and
suifering") to \$250,000. (This limit already has been
hiked by another committee to \$1 million).
4) Limit interest payments (currently 12 percent)
in judgments to the rate on five-year U.S. Treasury
bills.

bills.

5) Provide for "structured awards" — losing defendants could pay off jury awards in installments.

6) Allow defendants who win "frivolous lawsuits" to collect attorney fees and dafense costs from the person who sued them.

mEDICAL malpractice reforms include:

Setting up pre-trial panels to screen out unworthy cases. This recommendation is strongly opposed by lawyers.

Reducing the statute of limitations from 18 years to six, a change that would affect suits on behalf of children injured at birth.

Requiring expert witnesses to be active medical practitioners or professors, eliminating persons who travel the country doing nothing but testifying on behalf of anyone who will pay them.

Requiring better hospital record keeping to eliminate coverups of malpractice.

Toughening penalities for bad doctors.

GOVERNMENTAL immunity would be changed by distinguishing traditional "governmental" func-tions (lawsuits limited) from "proprietary" func-tions (business-type). Liability of lower-level gov-ernmental employees would be reduced. Dram shop reforms include prohibiting family

## Judge Cook speaks at annual meeting

U.S. District Judge Julian A. Cook, Jr. will be the featured speaker for the Fair Housing Center's Ninth Annual Meeting on Tuesday, Oct. 29 at the Southfield Hilton, 17017 W. Nine Mile.

Tickets for the dinner meeting — 5.30 to 9 p.m. – are \$20 and can be obtained by sending a check or money order to the FHC office, 2230 Withered St., Detroit, 48201.

St. Detroit, 48201.
Judge Cook, appointed to the federal bench by President Jimmy Carter in 1978, has had a long bistory of involvement in civil rights and fair housing concerns, and has served as a member and chairperson of the Michigan Civil Rights Commission from 1965-1971.



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"so that the intoricated person cannot benefit from
his or her negligent behavior." (Persons injured by
drunk drivers, however, could still sue the tavern
and the drunk driver.)

Taverns which serve minors, and minors who use
false identification, would be subjected to harsher
punmishments. Bartenders and drink servers must
be trained to detect intoxication better.

Persons injured by drunk drivers could still and the tavern

and the driver.



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