

**IN THE GENERAL ASSEMBLY  
STATE OF \_\_\_\_\_**

**An Act**

**To provide for periodic payments of awards for future damages**

1 Be it enacted by the People of the State of \_\_\_\_\_, represented in the General  
2 Assembly:

3 **Section 1. Definitions.** As used in this Act:

4 (a) "Future damages" includes damages for future medical treatment, care or custody,  
5 loss of future earnings, loss of bodily function or future pain and suffering of the  
6 judgment creditor.

7 (b) "Health care provider"\* means any doctor of medicine, doctor of osteopathy or  
8 hospital licensed by this State to provide health care services and an officer,  
9 employee or agent of such provider acting in the course and scope of employment.

10 (c) "Health care services" means acts of diagnosis, treatment, medical evaluation or  
11 advice or such other acts as may be permissible under the health care licensing  
12 statutes of this State.

13 (d) "Judgment creditor" means a person who has obtained a judgment against a health  
14 care provider for injury or death, arising out of the provision of or failure to provide  
15 health care services.

16 (e) "Judgment debtor" means a health care provider against whom a judgment has been  
17 recovered or any successors in interest of such person, where the judgment is  
18 unsatisfied.

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\* May designate other health professionals licensed by the State.

1 (f) "Periodic payments" means the payment of money or delivery of other property to  
2 the judgment creditor at regular intervals.

3 **Section 2. Periodic Payments of Future Damages.**

4 (a) In any action for damages for injury or death against any health care provider,  
5 whether based on tort, breach of contract or otherwise, arising out of the provision of  
6 or failure to provide health care services, the court in which such action is brought  
7 shall enter a judgment ordering future damages of the judgment creditor to be paid in  
8 whole or in part by periodic payments rather than by a lump-sum payment if the  
9 award equals or exceeds one hundred thousand dollars (\$100,000) in future damages.  
10 In entering a judgment ordering the payment of future damages by periodic  
11 payments, the court shall make a specific finding as to the dollar amount of periodic  
12 payments which will compensate the judgment creditor for such future damages. As  
13 a condition to authorizing periodic payments of future damages, the court shall  
14 require that such payments be made through the establishment of a trust fund or the  
15 purchase of an annuity for the life of such judgment creditor or during the  
16 continuance of the compensable injury or disability of the judgment creditor.

17 (b) The judgment ordering the payment of future damages by periodic payments shall  
18 specify the recipient or recipients of the payments, the dollar amount of the  
19 payments, the interval between payments, and the number of payments or the period  
20 of time over which payments shall be made. Such payments shall only be subject to  
21 modification by the court in the event of the death of the judgment creditor, as  
22 provided in Section 3, or upon petition to the court, as provided in Section 4.

1           **Section 3. Effect of Death.** In any judgment where future damages are payable in  
2 periodic payments, liability for payment of future damages not yet due shall terminate upon the  
3 death of the judgment creditor. Provided, however, that the court which rendered the original  
4 judgment may modify the judgment to provide that damages awarded for loss of future earnings  
5 shall not be reduced or payments terminated by reason of the death of the judgment creditor, but  
6 shall be paid to persons whom the judgment creditor owed a duty of support, as provided by law,  
7 immediately prior to the judgment creditor's death.

8           **Section 4. Satisfaction of Judgment.** Following the occurrence or expiration of all  
9 obligations specified in the periodic payment judgment, any obligation of the judgment debtor to  
10 make further payments shall cease. Provided, however, that if the judgment creditor lives beyond  
11 the date of the final payment by the judgment debtor, the judgment creditor may apply to the  
12 court for additional payments for economic damages resulting from the injury arising out of the  
13 provision of or failure to provide health care services that was the subject of the initial cause of  
14 action. Such additional payments shall be calculated at the annual rate at which damages were  
15 calculated under the initial order for payment of future damages.

16           **Section 5. Penalties.** In the event that the court finds that the judgment debtor has  
17 exhibited a continuing pattern of failing to make the payments specified in Section 2, the court  
18 shall find the judgment debtor in contempt of court and, in addition to the required periodic  
19 payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the  
20 failure to make such periodic payments, including court costs and attorney's fees.