

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 1237 (Delegate Grosfeld)

Judiciary

Health Care Providers - Statute of Limitations - Repeal

This bill repeals the special statute of limitations for actions against health care providers. The statute to be repealed requires a medical malpractice claim to be filed within the earlier of: (1) five years of the time the injury was committed; or (2) three years of the date the injury was discovered. The statute also provides that the limitation period on specified actions for medical malpractice brought by certain minors begins to run when the minor reaches either 11 or 16 years old.

Fiscal Summary

State Effect: Minimal.

Local Effect: Minimal.

Small Business Effect: Meaningful.

Fiscal Analysis

State Effect: This bill would result in a minimal increase in the number of medical malpractice cases filed. If the special statute of limitations for actions against health care providers is repealed as proposed by the bill, then presumably the general three-year statute of limitations would apply to medical malpractice actions. Under the general statute of limitations, a case must be filed within three years from the time that the plaintiff discovered or reasonably should have discovered the cause of action. The general statute of limitations does not include the five-year absolute time bar contained in the health care provider statute of limitations. The bill would therefore permit the filing of a medical malpractice case more than five years after the occurrence of the injury, as long as the case is filed within three years of discovery of the cause of action. For example, if a person became the victim of

medical malpractice in 1980, but was not on notice of the malpractice until 1990, then the person would have had until 1993 to file the case. Under current law, the person would have been required to file the case in 1985 or before. Extended periods of time before discovery of a medical malpractice cause of action are not common, but can occur if the injury is latent or the negligence of the health care provider is not apparent.

The bill could also result in more lawsuits filed by children. Under current law relating to non-medical malpractice cases, the statute of limitations is generally tolled for a plaintiff who is a child until the child reaches the age of majority. Therefore, a child usually has until the age of 21 or later to file suit. Under the statute that the bill seeks to repeal, children must file their medical malpractice cases in certain circumstances as early as either age 14 or 19.

The increase in the number of medical malpractice cases resulting from this bill is not expected to be substantial. It is expected that any increase in workload for the Health Claims Arbitration Office and the courts could be handled with existing resources and personnel.

Local Effect: It is expected that any increase in workload for the circuit courts resulting from an increased number of medical malpractice filings could be handled with existing resources and personnel.

Small Business Effect: Physicians' professional associations and other small health care businesses would incur increased liability exposure as a result of this bill.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Health Claims Arbitration Office, Department of Legislative Services

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