
By: **Delegates Grosfeld and Vallario**

Introduced and read first time: February 11, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Malpractice - Children - Limitations**

3 FOR the purpose of altering the time at which limitations begin on filing a health
4 care malpractice claim for a child who was under a certain age at the time the
5 injury was committed by a health care provider under certain circumstances;
6 providing for the application of this Act; and generally relating to time
7 limitations for health care malpractice claims for certain children.

8 BY repealing and reenacting, with amendments,
9 Article - Courts and Judicial Proceedings
10 Section 5-109
11 Annotated Code of Maryland
12 (1998 Replacement Volume)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Courts and Judicial Proceedings**

16 5-109.

17 (a) An action for damages for an injury arising out of the rendering of or
18 failure to render professional services by a health care provider, as defined in §
19 3-2A-01 of this article, shall be filed within the earlier of:

20 (1) Five years of the time the injury was committed; or

21 (2) Three years of the date the injury was discovered.

22 (b) [Except as provided in subsection (c) of this section, if the claimant was
23 under the age of 11 years at the time the injury was committed, the time limitations
24 prescribed in subsection (a) of this section shall commence when the claimant reaches
25 the age of 11 years.

26 (c) (1) The provisions of subsection (b) of this section may not be applied to
27 an action for damages for an injury:

- 1 (i) To the reproductive system of the claimant; or
2 (ii) Caused by a foreign object negligently left in the claimant's
3 body.

4 (2)] In an action for damages for an injury described in this subsection, if
5 the claimant was under the age of 16 years at the time the injury was committed, the
6 time limitations prescribed in subsection (a) of this section shall commence when the
7 claimant reaches the age of 16 years.

8 [(d)] (C) For the purposes of this section, the filing of a claim with the Health
9 Claims Arbitration Office in accordance with § 3-2A-04 of this article shall be
10 deemed the filing of an action.

11 [(e)] (D) The provisions of § 5-201 of this title that relate to a cause of action
12 of a minor may not be construed as limiting the application of subsection (b) [or (c)]
13 of this section.

14 [(f)] (E) Nothing contained in this section may be construed as limiting the
15 application of the provisions of:

16 (1) § 5-201 of this title that relate to a cause of action of a mental
17 incompetent; or

18 (2) § 5-203 of this title.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
20 construed only prospectively and may not be applied or interpreted to have any effect
21 on or application to any cause of action arising before the effective date of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1999.