

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 92 (Delegates Grosfeld and Vallario)
Judiciary

Health Care Malpractice - Children - Limitations

This bill raises, from 11 to 16, the age at which the statute of repose begins to run for filing a health care malpractice claim for injury to a child.

This bill must be construed only prospectively and may not be applied to any cause of action arising before the bill's effective date.

Fiscal Summary

State Effect: None. Any additional malpractice claims could be handled with existing Health Claims Arbitration Office and Judiciary resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Maryland law requires a 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. If the claimant was under the age of 11 at the time of the injury, these time limitations would not commence until the child reaches the age of 11.

There are two exceptions to this statute of repose. For injuries to the reproductive system or injuries caused by foreign objects negligently left in the claimant's body, the time limitations for filing a claim do not commence until the claimant reaches the age of 16.

These exceptions are based on the inherent delay that may occur in discovering these types of injuries.

Additional Information

Prior Introductions: An identical bill, HB 27, was introduced in the 2000 session. It passed the House, but failed a second reading in the Senate Judicial Proceedings Committee. HB 640 was introduced in the 1999 session and was passed by the House with amendments. No action was taken by the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene (Board of Physicians Quality Assurance), Health Claims Arbitrations Office, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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