
By: **Delegate Zirkin**

Introduced and read first time: January 26, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Malpractice - Time Limits - Minors**

3 FOR the purpose of altering the periods within which an action for damages for
4 certain injuries is required to be filed if the claimant was under a certain age at
5 the time the injury was committed; providing for the application of this Act; and
6 generally relating to the limitations periods for certain actions against certain
7 health care providers.

8 BY repealing and reenacting, with amendments,
9 Article - Courts and Judicial Proceedings
10 Section 5-109
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2004 Supplement)

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) IN THIS SECTION, "HEALTH CARE PROVIDER" HAS THE MEANING STATED
18 IN § 3-2A-01 OF THIS ARTICLE.

19 [(a)] (B) [An] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN
20 action for damages for an injury arising out of the rendering of or failure to render
21 professional services by a health care provider[, as defined in § 3-2A-01 of this
22 article,] shall be filed within the earlier of:

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

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

25 [(b)] Except as provided in subsection (c) of this section, if the claimant was
26 under the age of 11 years at the time the injury was committed, the time limitations

1 prescribed in subsection (a) of this section shall commence when the claimant reaches
2 the age of 11 years.

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

5 (i) To the reproductive system of the claimant; or

6 (ii) Caused by a foreign object negligently left in the claimant's
7 body.

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

12 (C) IF A CLAIMANT WAS UNDER THE AGE OF 11 YEARS AT THE TIME THE
13 INJURY WAS COMMITTED, AN ACTION FOR DAMAGES FOR AN INJURY ARISING OUT
14 OF THE RENDERING OF OR FAILURE TO RENDER PROFESSIONAL SERVICES BY A
15 HEALTH CARE PROVIDER:

16 (1) SUBJECT TO ITEM (2) OF THIS SUBSECTION, SHALL BE FILED BEFORE
17 THE CLAIMANT REACHES THE AGE OF 19 YEARS; OR

18 (2) FOR AN INJURY TO THE REPRODUCTIVE SYSTEM OF THE CLAIMANT
19 OR AN INJURY CAUSED BY A FOREIGN OBJECT NEGLIGENTLY LEFT IN THE
20 CLAIMANT'S BODY, SHALL BE FILED BEFORE THE CLAIMANT REACHES THE AGE OF
21 21 YEARS.

22 (d) For the purposes of this section, the filing of a claim with the Health
23 Claims Arbitration Office in accordance with § 3-2A-04 of this article shall be
24 deemed the filing of an action.

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

28 (f) Nothing contained in this section may be construed as limiting the
29 application of the provisions of:

30 (1) § 5-201 of this title that relate to a cause of action of a mental
31 incompetent; or

32 (2) § 5-203 of this title.

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

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2005.