

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 274
Judiciary

(Delegate Zirkin)

Health Care Malpractice - Time Limits - Minors

This bill provides that, if a claimant was under the age of 11 at the time the injury was committed, an action for damages for an injury arising out of the rendering or failure to render professional services by a health care provider must be filed before the claimant reaches age 19. However, for an injury to the claimant's reproductive system or an injury caused by a foreign object negligently left in the claimant's body, the claim must be filed before the claimant reaches age 21.

The bill does not apply to a cause of action arising before June 1, 2005.

Fiscal Summary

State Effect: The bill would not directly affect government finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, an action for damages for an injury arising out of the rendering or failure to render professional services by a health care provider must be filed within the earlier of five years after the time the injury was committed or three years after the date the injury was discovered.

If the claimant was under age 11 at the time the injury was committed, these time limits commence with the claimant reaches age 11.

For a case involving an injury to the claimant's reproductive system or caused by a foreign object negligently left in the claimant's body, if the claimant was under age 16 at the time the injury was committed, the time limitations begin when the claimant reaches age 16.

In *Piselli v. 75th Street Medical*, 371 Md. 188 (2002), the Court of Appeals held that, under Article 19 of the Maryland Declaration of Rights, the statutory three- and five-year time periods as applied to a minor claimant do not begin to run until the minor reaches the age of 18.

Additional Information

Prior Introductions: A similar bill, HB 676 of 2003, passed in the House. It was referred to the Judicial Proceedings Committee in the Senate, where no further action was taken.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2005
mam/jr

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