

# HOUSE BILL ANALYSIS

## HB 2936

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**Title:** An act relating to health care limitation of actions.

**Brief Description:** Limiting certain civil actions against health care providers.

**Sponsors:** Representatives Dyer, Backlund, Skinner and Sherstad.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Staff:** Bill Perry (786-7123).

**Background:** The statute of limitations for bringing most health care-related lawsuits has three time periods. Generally, an action must be brought within the later of *three* years after the act that caused the harm, or *one* year after discovering the cause of the harm, but never more than *eight* years after the act. However, the statute is tolled—(*i.e.*, the period of limitation does not run) while the claimant is a minor, is incompetent, or is imprisoned before sentencing on a criminal charge. These tolling provisions apply to most kinds of civil lawsuits.

Another section of law says that notwithstanding— the tolling provision, the knowledge of a parent regarding a claim is to be imputed to a minor child. The imputed knowledge can act to bar a claim. The state supreme court has ruled, however, that the one-, three-, and eight-year periods of limitation commence when a minor child reaches majority. That is, even though the knowledge of the parent may be imputed before the child reaches age 18, that imputed knowledge takes effect only after the child reaches age 18. Gilbert v. Sacred Heart.

The statute of limitations applicable to health care also contains a provision that tolls the running of the statute "upon proof of fraud, intentional concealment, or the presence of a foreign body not intended to have a therapeutic or diagnostic purpose or effect." This tolling period is apparently open-ended.

**Summary of Bill:** The tolling provisions relating to minority, incompetence, and pre-sentence imprisonment no longer apply to lawsuits based on health care. Minority, incompetence, or imprisonment no longer prevent the three-year, one-year, or eight-year periods of limitation from running. The imputation of knowledge from a parent to a child is also eliminated.

The statute of limitations is tolled for only one year upon proof of fraud, concealment, or presence of a foreign object.

The net result of these changes is that a lawsuit based on health care must be brought within the later of three years of the act or omission, or within one year of discovery. The one- and three- year periods of limitation are tolled for one year in the case of fraud, concealment, or the presence of a foreign object. In no event may a suit be brought more than eight years after the act or omission.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

Office of Program Research