

SENATE BILL REPORT

SB 6701

As Reported By Senate Committee On:
Law & Justice, February 5, 1998

Title: An act relating to actions for injuries resulting from health care.

Brief Description: Clarifying statute of limitations on actions for professional negligence.

Sponsors: Senators Fairley, Long, Kline and Thibaudeau.

Brief History:

Committee Activity: Law & Justice: 2/5/98 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6701 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin and Zarelli.

Staff: Dick Armstrong (786-7460)

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 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) upon proof of fraud, intentional concealment, or the presence of a foreign object.

In a recent Supreme Court case involving health care malpractice, the court held that the statute of limitations is tolled indefinitely if the plaintiff shows proof of intentional concealment or fraud by the defendant.

Summary of Substitute Bill: The statute of limitations on commencing health care malpractice lawsuits is revised in cases involving fraud, concealment or the negligent presence of a foreign body. In such cases, the lawsuit must be commenced within one year from the date of actual knowledge by the plaintiff of the defendant's act.

The provisions apply to cases filed after the effective date of the act.

Substitute Bill Compared to Original Bill: The original bill was not heard.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The Legislature needs to address the case of *Duke v. Boyd* because there should be some time period when a doctor cannot be sued for fraud or concealment. However, the Medical Association still has concerns that the language on discovery is not precise enough and leaves doctors open to continued liability. Negotiations on the bill need to be continued.

Testimony Against: None.

Testified: PRO: Larry Shannon, WSTLA; Cliff Webster, Medical Association.