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HOUSE BILL 2936

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State of Washington                      55th Legislature                      1998 Regular Session

By Representatives Dyer, Backlund, Skinner and Sherstad

Read first time 01/23/98. Referred to Committee on Law & Justice.

1            AN ACT Relating to health care limitation of actions; amending RCW  
2 4.16.190 and 4.16.350; and adding a new section to chapter 4.16 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 4.16.190 and 1993 c 232 s 1 are each amended to read  
5 as follows:

6            If a person entitled to bring an action mentioned in this chapter,  
7 except for a penalty or forfeiture, or against a sheriff or other  
8 officer, for an escape, be at the time the cause of action accrued  
9 either under the age of eighteen years, or incompetent or disabled to  
10 such a degree that he or she cannot understand the nature of the  
11 proceedings, such incompetency or disability as determined according to  
12 chapter 11.88 RCW, or imprisoned on a criminal charge prior to  
13 sentencing, the time of such disability shall not be a part of the time  
14 limited for the commencement of action.

15            This section does not apply to any civil action for damages for  
16 injury occurring as a result of health care that is provided after June  
17 25, 1976.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 4.16 RCW  
2 to read as follows:

3        Any civil action for damages for injury occurring as a result of  
4 health care provided after June 25, 1976, and before the effective date  
5 of this act that has not accrued before the effective date of this act  
6 and that was previously tolled by RCW 4.16.190 accrues on the effective  
7 date of this act.

8        **Sec. 3.**    RCW 4.16.350 and 1988 c 144 s 2 are each amended to read  
9 as follows:

10       Any civil action for damages for injury occurring as a result of  
11 health care which is provided after June 25, 1976 against:

12       (1) A person licensed by this state to provide health care or  
13 related services, including, but not limited to, a physician,  
14 osteopathic physician, dentist, nurse, optometrist, (~~podiatrist~~)  
15 podiatric physician and surgeon, chiropractor, physical therapist,  
16 psychologist, pharmacist, optician, physician's assistant, osteopathic  
17 physician's assistant, nurse practitioner, or physician's trained  
18 mobile intensive care paramedic, including, in the event such person is  
19 deceased, his or her estate or personal representative;

20       (2) An employee or agent of a person described in subsection (1) of  
21 this section, acting in the course and scope of his or her employment,  
22 including, in the event such employee or agent is deceased, his or her  
23 estate or personal representative; or

24       (3) An entity, whether or not incorporated, facility, or  
25 institution employing one or more persons described in subsection (1)  
26 of this section, including, but not limited to, a hospital, clinic,  
27 health maintenance organization, or nursing home; or an officer,  
28 director, employee, or agent thereof acting in the course and scope of  
29 his or her employment, including, in the event such officer, director,  
30 employee, or agent is deceased, his or her estate or personal  
31 representative; based upon alleged professional negligence shall be  
32 commenced within three years of the act or omission alleged to have  
33 caused the injury or condition, or one year of the time the patient or  
34 his or her representative discovered or reasonably should have  
35 discovered that the injury or condition was caused by said act or  
36 omission, whichever period expires later(~~(, except that in no event~~  
37 ~~shall an action be commenced more than eight years after said act or~~  
38 ~~omission: PROVIDED, That~~)). However, the time for commencement of an

1 action is tolled (~~((upon proof of))~~) for one year after the patient or  
2 his or her representative discovers fraud, intentional concealment, or  
3 the presence of a foreign body not intended to have a therapeutic or  
4 diagnostic purpose or effect. Further, in no event shall an action be  
5 commenced more than eight years after said act or omission.

6 (~~For purposes of this section, notwithstanding RCW 4.16.190, the~~  
7 ~~knowledge of a custodial parent or guardian shall be imputed to a~~  
8 ~~person under the age of eighteen years, and such imputed knowledge~~  
9 ~~shall operate to bar the claim of such minor to the same extent that~~  
10 ~~the claim of an adult would be barred under this section. Any action~~  
11 ~~not commenced in accordance with this section shall be barred.~~

12 ~~For purposes of this section, with respect to care provided after~~  
13 ~~June 25, 1976, and before August 1, 1986, the knowledge of a custodial~~  
14 ~~parent or guardian shall be imputed as of April 29, 1987, to persons~~  
15 ~~under the age of eighteen years.))~~

16 This section does not apply to a civil action based on intentional  
17 conduct brought against those individuals or entities specified in this  
18 section by a person for recovery of damages for injury occurring as a  
19 result of childhood sexual abuse as defined in RCW 4.16.340(5).

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