S-4356.1 _____

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State of Washington   **55th Legislature**   **1998 Regular Session**

By Senate Committee on Law & Justice (originally sponsored by Senators Fairley, Long, Kline and Thibaudeau)

Read first time 02/06/98.

1   AN ACT Relating to actions for injuries resulting from health care;
2 amending RCW 4.16.350; and creating a new section.

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

4   **Sec. 1.** RCW 4.16.350 and 1988 c 144 s 2 are each amended to read
5 as follows:
6   Any civil action for damages for injury occurring as a result of
7 health care which is provided after June 25, 1976 against:
8   (1) A person licensed by this state to provide health care or
9 related services, including, but not limited to, a physician,
10 osteopathic physician, dentist, nurse, optometrist, ((podiatrist))
11 podiatric physician and surgeon, chiropractor, physical therapist,
12 psychologist, pharmacist, optician, physician's assistant, osteopathic
13 physician's assistant, nurse practitioner, or physician's trained
14 mobile intensive care paramedic, including, in the event such person is
15 deceased, his estate or personal representative;
16   (2) An employee or agent of a person described in subsection (1) of
17 this section, acting in the course and scope of his employment,
18 including, in the event such employee or agent is deceased, his estate
19 or personal representative; or

1   (3) An entity, whether or not incorporated, facility, or
2 institution employing one or more persons described in subsection (1)
3 of this section, including, but not limited to, a hospital, clinic,
4 health maintenance organization, or nursing home; or an officer,
5 director, employee, or agent thereof acting in the course and scope of
6 his employment, including, in the event such officer, director,
7 employee, or agent is deceased, his estate or personal representative;
8 based upon alleged professional negligence shall be commenced within
9 three years of the act or omission alleged to have caused the injury or
10 condition, or one year of the time the patient or his representative
11 discovered or reasonably should have discovered that the injury or
12 condition was caused by said act or omission, whichever period expires
13 later, except that in no event shall an action be commenced more than
14 eight years after said act or omission: PROVIDED, That the time for
15 commencement of an action is tolled upon proof of fraud, intentional
16 concealment, or the presence of a foreign body not intended to have a
17 therapeutic or diagnostic purpose or effect, until the date the patient
18 or the patient's representative has actual knowledge of the act of
19 fraud or concealment, or of the presence of the foreign body; the
20 patient or the patient's representative has one year from the date of
21 the actual knowledge in which to commence a civil action for damages.
22   For purposes of this section, notwithstanding RCW 4.16.190, the
23 knowledge of a custodial parent or guardian shall be imputed to a
24 person under the age of eighteen years, and such imputed knowledge
25 shall operate to bar the claim of such minor to the same extent that
26 the claim of an adult would be barred under this section. Any action
27 not commenced in accordance with this section shall be barred.
28   For purposes of this section, with respect to care provided after
29 June 25, 1976, and before August 1, 1986, the knowledge of a custodial
30 parent or guardian shall be imputed as of April 29, 1987, to persons
31 under the age of eighteen years.
32   This section does not apply to a civil action based on intentional
33 conduct brought against those individuals or entities specified in this
34 section by a person for recovery of damages for injury occurring as a
35 result of childhood sexual abuse as defined in RCW 4.16.340(5).

1   NEW SECTION. **Sec. 2.** This act applies to any cause of action
2 filed on or after the effective date of this act.

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