

FINAL BILL REPORT

HB 1533

C 82 L 13
Synopsis as Enacted

Brief Description: Clarifying notice of claims in health care actions.

Sponsors: Representatives Rodne and Jinkins.

House Committee on Judiciary
Senate Committee on Law & Justice

Background:

The law governing health care actions provides that an action based upon a health care provider's professional negligence may not be commenced unless the defendant has been given 90-day notice of the intention to commence the action. This 90-day notice requirement for health care actions was established in 2006 as part of comprehensive legislation addressing medical malpractice issues, including civil liability for injuries resulting from health care.

State and local government claim filing statutes provide that a tort claim against a state or local governmental entity must be presented to the state or local government entity 60 days prior to the commencement of a court action. Legislation enacted in 2009 exempted health care claims from the requirements of the state and local government claim filing statutes so that health care actions against governmental entities were governed exclusively by the 90-day notice requirement.

The 90-day notice requirement for health care actions was found unconstitutional in a 2010 Washington Supreme Court case involving a private health care provider. In response, legislation was enacted in 2012 to provide that health care actions against state or local governmental entities are subject to the state and local government claim filing statutes, which have a 60-day notice requirement. However, the 2012 legislation did not repeal the 90-day notice requirement, and a subsequent 2012 Washington Supreme Court decision ruled that the 90-day notice requirement remains valid with respect to health care actions against governmental entities. As a result of this series of legislative enactments and court decisions, there are now two statutes, with different procedural requirements, governing pre-suit notice for health care actions against governmental entities.

Summary:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The requirement that a claimant provide 90-day prior notice of his or her intent to file an action based on the professional negligence of a health care provider is eliminated. Health care actions against governmental entities remain subject to the pre-suit notice requirements in the state and local government claim filing statutes.

Votes on Final Passage:

House	98	0
Senate	43	5

Effective: July 28, 2013