

HOUSE BILL REPORT

HB 2936

As Reported By House Committee On:
Law & Justice

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.

Brief History:

Committee Activity:

Law & Justice: 2/5/98, 2/6/98 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Carrell; Cody; Kenney; Lambert; Lantz and Sherstad.

Minority Report: Do not pass. Signed by 4 members: Representatives Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Mulliken and Robertson.

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. This eight-year period is referred to as the period of "repose." 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.

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 open-ended.

Summary of Substitute Bill: The statute of limitations is tolled for one year from when a patient has actual knowledge of fraud, concealment, or presence of a foreign object.

Substitute Bill Compared to Original Bill: The original bill also removes the tolling provisions in current law relating to minority, incompetency, and imprisonment.

The original bill tolls the statute of limitations from the time a patient "discovers" fraud, concealment, or the presence of a foreign object. The original bill also makes this discovery provisions subject to the eight-year statute of repose.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill reestablishes the original legislative intent in passing tort reform. The bill will help provide some certainty and finality to malpractice cases and will help hold down the cost of insurance.

Testimony Against: As introduced, the bill punishes children with incompetent parents. It also encourages providers to fraudulently conceal problems in hopes of getting passed the eight-year period of repose.

Testified: Cliff Webster, Washington State Medical Association (pro); Barbara Allan Shickich, Washington State Hospital Association (pro); and Larry Shannon, Washington State Trial Lawyers Association (con).