

**HB 3200** - H AMD  
By Representative

1           Strike everything after the enacting clause and insert the  
2 following:

3           "**Sec. 1.** RCW 4.16.350 and 1998 c 147 s 1 are each amended to  
4 read as follows:

5           (1) Any civil action for damages for injury or death occurring  
6 as a result of health care which is provided after June 25, 1976,  
7 against:

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

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

22           ~~((3))~~ (c) An entity, whether or not incorporated, facility,  
23 or institution employing one or more persons described in (a) of  
24 this subsection ~~((1) of this section)~~, including, but not limited  
25 to, a hospital, clinic, health maintenance organization, ~~((or))~~  
26 nursing home, or boarding home; or an officer, director, employee,  
27 or agent thereof acting in the course and scope of his or her  
28 employment, including, in the event such officer, director,  
29 employee, or agent is deceased, his or her estate or personal  
30 representative;

1 based upon alleged professional negligence shall be commenced  
2 within three years of the act or omission alleged to have caused  
3 the injury or condition, or one year of the time the patient or his  
4 or her representative or custodial parent or guardian discovered or  
5 reasonably should have discovered that the injury or condition was  
6 caused by said act or omission, whichever period (~~expires later,~~  
7 ~~except that in no event shall an action be commenced more than~~  
8 ~~eight years after said act or omission:~~ PROVIDED, That the time  
9 for commencement of an action is tolled upon proof of fraud,  
10 intentional concealment, or the presence of a foreign body not  
11 intended to have a therapeutic or diagnostic purpose or effect,  
12 until the date the patient or the patient's representative has  
13 actual knowledge of the act of fraud or concealment, or of the  
14 presence of the foreign body; the patient or the patient's  
15 representative has one year from the date of the actual knowledge  
16 in which to commence a civil action for damages.

17 For purposes of this section, notwithstanding RCW 4.16.190, the  
18 knowledge of a custodial parent or guardian shall be imputed to a  
19 person under the age of eighteen years, and such imputed knowledge  
20 shall operate to bar the claim of such minor to the same extent  
21 that the claim of an adult would be barred under this section. Any  
22 action not commenced in accordance with this section shall be  
23 barred.

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

28 (2) In no event may an action be commenced more than three  
29 years after the act or omission alleged to have caused the injury  
30 or condition except:

31 (a) Upon proof of fraud, intentional concealment, or the  
32 presence of a foreign body not intended to have a therapeutic or  
33 diagnostic purpose or effect, in which case the patient or the  
34 patient's representative has one year from the date the patient or  
35 the patient's representative or custodial parent or guardian has  
36 actual knowledge of the act of fraud or concealment or of the  
37 presence of the foreign body in which to commence a civil action  
38 for damages.

1        (b) In the case of a minor, for any period during minority, but  
2 only for such period during minority in which the minor's custodial  
3 parent or guardian and the defendant or the defendant's insurer  
4 have committed fraud or collusion in the failure to bring an action  
5 on behalf of the minor.

6        (c) In the case of a minor under the full age of six years, in  
7 which case the action on behalf of the minor must be commenced  
8 within three years or prior to the minor's eighth birthday,  
9 whichever provides a longer period.

10       (3) Any action not commenced in accordance with this section is  
11 barred.

12       (4) For purposes of this section, the tolling provisions of RCW  
13 4.16.190 do not apply.

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

19       Correct the title.

**EFFECT:** Changes the statute of limitations to the *earlier* of 3 years from the act or omission or one year from discovery that the injury was caused by the act or omission.

Provides that in no event may an action be brought more than three years from the act or omission except under the following conditions: (1) there was fraud, intentional concealment, or the presence of a foreign body; (2) for any period of minority where the parent and defendant committed fraud or collusion in failing to bring the action; and (3) for minors under the age of 6, the action must be commenced within 3 years or prior to the minor's 8th birthday, whichever is *longer*.

Provides that the statute of limitations is not tolled during minority, disability or incompetency.