
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 502 (Substitute S-2 as reported)
Sponsor: Senator Philip E. Hoffman
Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act to bar an action for medical malpractice for medical treatment or care provided to an individual while he or she was incarcerated in a "correctional facility" as a result of a criminal conviction, unless the act or omission of the person providing the treatment or care upon which the claim was based was grossly negligent or intentional.

"Correctional facility" would mean that term as defined in the Correctional Officers' Training Act (MCL 791.502): either a facility or institution that houses an inmate population under the jurisdiction of the Department of Corrections (DOC); or a municipal or county jail, work camp, lockup, holding center, halfway house, community corrections center, or any other facility maintained by a municipality or county that houses adult prisoners.

MCL 600.2912a

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 502 (S-2) would have an indeterminate fiscal impact on State and local government. As employees of the State, doctors employed by the Department of Corrections have immunity from malpractice, except when the charge is gross negligence. Doctors who contract with the Department of Corrections do not have immunity. Seemingly, the bill would not extend any additional protection to doctors who are employees of the State; it would provide some malpractice suit protection to contract employees. Given that contract health care employees would have decreased exposure to medical malpractice suits, it is unknown if medical malpractice insurance premiums would decrease. Assuming that insurers would reduce premiums for contract physicians, it is unknown if contracts would be rewritten to allow the State the benefits of premium cost savings.

Some information about medical malpractice suits against Department of Correction's doctors is presented below. In 1996, about six lawsuits were brought by prisoners for malpractice against State-employed doctors. This was estimated by the corrections division of the Attorney General's office. Additional lawsuits may have been handled by the division that represents the Department of Community Health physicians. Additionally, for fiscal year 1995, two cases, alleging medical malpractice against State-employed doctors, were settled for a total of \$240,000.

Date Completed: 10-27-97

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.