

Legislative Analysis



MEDICAL MALPRACTICE: TIME LIMITS & INTEREST

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House Bill 5672

Sponsor: Rep. Peter MacGregor

Committee: Judiciary

Complete to 6-6-12

A SUMMARY OF HOUSE BILL 5672 AS INTRODUCED 5/23/12

The bill would amend the Revised Judicature Act to reduce the period of time in which medical malpractice actions may be brought in cases where the person dies. Additionally, the bill prohibits awarding interest on costs or attorney fees before the entry of the judgment in cases of medical malpractice.

Period of Limitations

Under current law, if a person dies before or within 30 days after the period of limitations has run on an allegation, an action may be commenced by the personal representative of the deceased person at any time within two years after the letters of authority are issued.

The bill would set this two-year period in cases of medical malpractice from the date letters of authority are issued to the first personal representative of an estate. The issuance of subsequent letters of authority would not enlarge the time within which the action may be commenced. However, if a personal representative dies or is judged to be legally incapacitated within two years after the issuing of letters of authority, a successor personal representative may commence a medical malpractice action within one year after the death or legal incapacitation of the original personal representative. As in current law, an action could not be commenced later than three years after the period of limitations has run.

Interest on Attorney Fees and Costs

Currently, interest in money judgments in civil actions is calculated at six-month intervals from the date of filing the complaint, at a rate of 1% plus the average interest paid on five-year U.S. treasury notes. This amount is applied to the entire amount of the money judgment, including attorney fees and other costs. The bill would remove attorney fees or costs from these interest calculations for medical malpractice cases for any period before the entry of the judgment.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the judiciary. Limitations in the time period in which a malpractice action may be brought could result in a slight decrease in caseload of medical malpractice cases, thus leading to decreased costs to the court due to a reduced caseload. The number of cases that would be affected by the bill is not known.

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