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BILL



ANALYSIS

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Senate Bill 1118 (as enacted)  
Sponsor: Senator Joe Hune  
Senate Committee: Insurance  
House Committee: Judiciary

**PUBLIC ACT 609 of 2012**

Date Completed: 2-7-13

**CONTENT****The bill amends the Revised Judicature Act to do the following:**

- **Change the deadline for filing an affidavit of meritorious defense.**
- **Limit the period of time for bringing a medical malpractice action on behalf of a deceased person.**
- **Provide that prejudgment interest will not be calculated on costs or attorney fees awarded in a medical malpractice action.**

The bill will take effect on March 28, 2013, and will apply only to actions in which the cause of action arose on or after that date.

**Affidavit of Meritorious Defense**

In a medical malpractice action, the Act requires the plaintiff to file an affidavit of merit with the complaint. The defendant is required to file an answer to the complaint within 21 days after the affidavit of merit has been filed. In addition, the Act requires the defendant, or the defendant's attorney, to file an affidavit of meritorious defense within 21 days after the plaintiff or the plaintiff's attorney files the affidavit of merit.

The bill requires the defendant or the defendant's attorney to file an affidavit of meritorious defense within 21 days after the plaintiff or the plaintiff's attorney serves (rather than files) the affidavit of merit.

**Statute of Limitations**

Currently, if a person dies before or within 30 days after the period of limitations has run, an action that survives by law may be brought by the personal representative of the deceased person within two years after

letters of authority are issued, although the period of limitations has run.

Under the bill, if the action that survives by law is an action alleging medical malpractice, the two-year period will run from the date letters of authority are issued to the first personal representative of an estate. Except as provided below, the issuance of subsequent letters of authority will not enlarge the time within which the action may be brought.

If a personal representative dies or is adjudged by a court to be legally incapacitated within two years after his or her letters are issued, the successor personal representative may bring a medical malpractice action that survives by law within one year after the personal representative died or was adjudged legally incapacitated.

As currently provided, an action may not be commenced later than three years after the period of limitations has run.

**Prejudgment Interest**

The Act prescribes the rate of interest allowed and the method of calculating interest on a money judgment in a civil action. As a rule, interest is calculated at six-month intervals from the date the complaint was filed, and is calculated on the entire amount of the money judgment, including attorney fees and other costs.

Under the bill, in a medical malpractice action, interest on costs or attorney fees awarded under a statute or court rule will not be calculated for any period before the entry of the judgment.

MCL 600.2912e et al.

Legislative Analyst: Suzanne Lowe

**FISCAL IMPACT**

By tightening the language regarding the period of limitations, the bill might cause a marginal decrease in caseload for local courts as actions brought many years after the alleged incident may be disallowed.

Fiscal Analyst: Dan O'Connor

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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.