



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 1296 (as introduced 9-20-12)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

Date Completed: 9-24-12

CONTENT

The bill would add Section 5838b to the Revised Judicature Act to provide that an action for legal malpractice against an attorney-at-law, licensed in Michigan or elsewhere, or a law firm could not be commenced later than six years after the date of the act or omission that was the basis for the claim.

The Act provides that a person may not bring an action to recover damages unless, after the claim first accrued to the person, the action is commenced within the period of time prescribed by the Act (the statute or period of limitations). As a rule, the statute of limitations on malpractice actions is two years.

Except as otherwise provided in Section 5838a (which applies to medical malpractice actions), if a claim is based on the malpractice of a person who is a member of a State licensed profession, the claim accrues at the time the person discontinues serving the plaintiff in a professional capacity as to the matters that were the basis for the malpractice action, regardless of when the plaintiff discovers or otherwise has knowledge of the claim.

In addition, except as otherwise provided in Section 5838a, a malpractice action may be commenced at any time within the applicable period of limitations, or within six months after the plaintiff discovers or should have discovered the existence of the claim, whichever is later.

Under the bill, these provisions would apply except as otherwise provided in Section 5838a or proposed Section 5838b.

The bill would define "law firm" as either an organization that is engaged in the private practice of law, including a partnership, sole practitioner with one or more hired associates, professional limited liability partnership, professional limited liability company, or professional corporation; or a legal services corporation.

MCL 600.5838 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Dan O'Connor

S1112\S1296sa

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.