



## 2001 SENATE BILL 170

May 3, 2001 - Introduced by Senators RISSER, ERPENBACH, BURKE and GEORGE, cosponsored by Representatives JOHNSRUD, TURNER, POCAN, GRONEMUS, SYKORA and BERCEAU. Referred to Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform.

- 1     **AN ACT** *to amend* 893.82 (5m) of the statutes; **relating to:** notification of the  
2           state regarding a medical malpractice claim.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a person is injured as the result of medical malpractice, he or she must commence an action to recover his or her damages within three years from the date of the injury or within one year from the date that the injury was discovered or should have been discovered, but not more than five years after the date of the injury. Currently, if a health care provider conceals an act from the patient that resulted in the injury, the injured patient must commence the action within one year from the date that the concealment was discovered or should have been discovered, within three years from the date of the injury, or within one year from the date that the injury was discovered, whichever is later. Currently, if a foreign object is left in a patient's body, the patient must commence the medical malpractice action within one year from the date that the person was aware of the object or should have been aware, within three years from the date of the injury, or within one year from the date that the injury was discovered, whichever is later.

Also under current law, if a person wants to bring a civil action against an officer, employee, or agent of the state for an act committed in the course of the officer's, employee's, or agent's duties, the person must first serve a notice of the claim with the attorney general within 120 days after the date of the act. The claim must include the time, date, location, and circumstances of the act that gave rise to the claim, plus the names of the persons involved in the act. If the claim is to recover damages for medical malpractice, the 120-day period is extended to 180 days after the injury was discovered or should have been discovered.

**SENATE BILL 170**

This bill removes the requirement that a person must serve a notice of a claim for medical malpractice involving a state officer, employee, or agent on the attorney general within 180 days after the injury. Instead, the bill requires a person who was injured as the result of medical malpractice by a state officer, employee, or agent to commence that action within the same time period that is required when the claim is against a private medical provider.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 893.82 (5m) of the statutes is amended to read:

2           893.82 (**5m**) With regard to a claim to recover damages for medical malpractice,  
3           the time periods under subs. (3), (3m), and (4) ~~shall be 180 days after discovery of the~~  
4           ~~injury or the date on which, in the exercise of reasonable diligence, the injury should~~  
5           ~~have been discovered, rather than 120 days after the event causing the injury for~~  
6           -serving a notice of a claim upon the attorney general do not apply. The time period  
7           for commencing an action against a state officer, employee, or agent for damages for  
8           medical malpractice are the same as the time periods under s. 893.55 (1), (2), and (3).

9   (ENDD)