

ASSEMBLY BILL 1071 (LRB -4541)

An Act to amend 893.56 of the statutes; relating to: the time limit for a person under the age of 18 to bring action against a health care provider.

2006

02-27.	A.	Introduced by Representatives Gielow, Hahn, Kerkman, Kreibich, Newcomer, Nischke, Ott, Towns and Vukmir ; cosponsored by Senators S. Fitzgerald, Kedzie, Leibham and Roessler .	
02-27.	A.	Read first time and referred to committee on Insurance	848
02-27.	A.	Public hearing held.	
02-28.	A.	Executive action taken.	
02-28.	A.	Report passage recommended by committee on Insurance, Ayes 9, Noes 5	858
02-28.	A.	Referred to committee on Rules	862
02-28.	A.	Made a special order of business at 10:18 A.M. on 3-2-2006 pursuant to Assembly Resolution 49	862
03-02.	A.	Read a second time	892
03-02.	A.	Assembly substitute amendment 1 offered by Representative Staskunas (LRB s0598)	892
03-02.	A.	Assembly substitute amendment 1 laid on table, Ayes 57, Noes 40	892
03-02.	A.	Ordered to a third reading	892
03-02.	A.	Rules suspended	892
03-02.	A.	Read a third time and passed , Ayes 59, Noes 37, Paired 2	892
03-02.	A.	Ordered immediately messaged	893
03-06.	S.	Received from Assembly.	
03-06.	S.	Read first time and referred to committee on Agriculture and Insurance.	
03-08.	S.	Public hearing held.	
03-08.	S.	Executive action taken.	
03-08.	S.	Report concurrence recommended by committee on Agriculture and Insurance, Ayes 4, Noes 3.	
03-08.	S.	Available for scheduling.	
03-08.	S.	Placed on calendar 3-9-2006 by committee on Senate Organization.	
03-09.	S.	Read a second time.	
03-09.	S.	Ordered to a third reading.	
03-09.	S.	Rules suspended.	
03-09.	S.	Read a third time and concurred in , Ayes 18, Noes 14.	
03-09.	S.	Ordered immediately messaged.	
03-14.	A.	Received from Senate concurred in.	

**2005
ENROLLED BILL**

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ADOPTED DOCUMENTS:

Orig Engr SubAmdt

05 4541 / 2

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic Rel

3-17-06

Date

J. Miller

Enrolling Drafter

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2005 ASSEMBLY BILL 1071

February 27, 2006 - Introduced by Representatives GIELOW, HAHN, KERKMAN, KREIBICH, NEWCOMER, NISCHKE, OTT, TOWNS and VUKMIR, cosponsored by Senators S. FITZGERALD, KEDZIE, LEIBHAM and ROESSLER. Referred to Committee on Insurance.

- 1 **AN ACT to amend** 893.56 of the statutes; **relating to:** the time limit for a person
2 under the age of 18 to bring action against a health care provider.

Analysis by the Legislative Reference Bureau

In *Haferman v. St. Clare Healthcare Foundation, Inc.*, 2005 WI 171, (2005), the Wisconsin Supreme Court held that the conflicts between three separate statutes regarding actions against health care providers and by persons under the age of 18 resulted in no limit on the time that a developmentally disabled person under the age of 18 could bring such an action. Although the case did not address the issue, it appears that the statutes of limitations are unclear regarding persons who are under the age of 18 and who are mentally ill or imprisoned.

Under this bill, all persons, under the age of 18 must bring the action against a health care provider within the same period, which is the later of the following:

1. The time that the person reaches the age of ten.
2. Within three years after the date of the injury.
3. Within one year from the date that the injury was discovered or should have been discovered, but not more than five years from the date of the act or omission that caused the injury.
4. If a health care provider concealed from the person a prior act or omission that resulted in the injury, within one year from the date that the patient discovers the concealment or should have discovered the concealment.

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5. When a foreign object that has no therapeutic purpose has been left in a person's body, within one year after the person is aware or should have been aware of the presence of the object.

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

1 **SECTION 1.** 893.56 of the statutes is amended to read:

2 **893.56 Health care providers; minors actions.** Any person under the age
3 of 18, ~~who is not under disability by reason of insanity, developmental disability or~~
4 ~~imprisonment,~~ shall bring an action to recover damages for injuries to the person
5 arising from any treatment or operation performed by, or for any omission by a health
6 care provider within the time limitation under s. 893.55 or by the time that person
7 reaches the age of 10 years, whichever is later. That action shall be brought by the
8 parent, guardian or other person having custody of the minor within the time limit
9 set forth in this section.

10 **SECTION 2. Initial applicability.**

11 (1) This act first applies to actions accruing on the effective date of this
12 subsection.

13

(END)