



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 127

**Senate Substitute
Amendment 1**

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Current Law

Current law provides that a person, in order to sue a state officer, employee, or agent for medical malpractice, must notify the Attorney General of the claim within 180 days after discovery of the injury resulting from the medical malpractice or 180 days from the date on which, in the exercise of reasonable diligence, the injury should have been discovered. Similarly, a medical malpractice lawsuit may not be brought against various local governmental bodies or an officer, official, agent, or employee of those bodies unless, within 180 days after discovery of the injury or within 180 days from the date on which, in the exercise of reasonable diligence, the injury should have been discovered, written notice of the circumstances of the claim are served upon the applicable governmental entity and its representative. Failure to provide the appropriate notice of claim may prevent the continuation of the legal action. [See ss. 893.80 (1) and (1m) and 893.82 (3) and (5m), Stats.]

Current law also limits the amount of damages that may be recovered in a negligence action, including an action concerning medical malpractice, brought against state officers, agents, or employees, or against local governments or their representatives. The state damages limit is \$250,000 and the local governmental damages limit is \$50,000, except that the latter limit is \$25,000 when the action is brought against a volunteer fire company or its officers, officials, agents, or employees. [See ss. 893.80 (3) and 893.82 (6), Stats.]

Senate Bill 127

Senate Bill 127 eliminates the requirement that a person must provide written notice of a medical malpractice claim to the Attorney General or to a local governmental body or its representative prior to beginning a lawsuit against a state officer, employee, or agent or against a local governmental body or its officers, officials, agents, or employees.

Senate Bill 127 also provides that the general \$50,000 damages limit applicable to local governments will not apply in a medical malpractice action against a local governmental health care provider or its representatives. Instead, the damages limit in this proceeding will be \$250,000, equaling the state damages limit.

Senate Substitute Amendment 1

The substitute amendment eliminates the requirement that a person must provide written notice of a medical malpractice claim to the Attorney General or to a local governmental body or its representative prior to beginning a lawsuit against a state officer, employee, or agent or against a local governmental body or its officers, officials, agents, or employees.

The substitute amendment does *not* raise the general \$50,000 damages limit applicable to local governments in a medical malpractice action against a local governmental health provider or its representatives.

Legislative History

On February 4, 2010, the Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing adopted Senate Substitute Amendment 1 to Senate Bill 127 and recommended passage of the bill, as amended, both on votes of Ayes, 5; Noes, 0.

RS:jal