



## 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.

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### *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.

