

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 208
93RD GENERAL ASSEMBLY

Reported from the Committee on Judiciary March 3, 2005 with recommendation that House Committee Substitute for House Bill No. 208 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

0899L.05C

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to civil actions for damages.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be
2 known as section 537.530, to read as follows:

- 3 **537.530. 1. In any original action for damages in excess of three thousand dollars**
4 **against an individual or entity licensed to practice a profession by this state, in any agency**
5 **or court thereof, on account of the rendering of or failure to render professional services,**
6 **the plaintiff or his or her attorney shall file an affidavit with the court stating that he or**
7 **she has obtained the written opinion of a similarly licensed professional which states that**
8 **the defendant failed to use such care as a reasonably prudent and careful professional**
9 **would have under similar circumstances and that such failure to use such reasonable care**
10 **directly caused or directly contributed to cause the damages claimed in the petition.**
11 **2. The affidavit shall state the name, address, and qualifications of all similarly**
12 **licensed professionals offering such opinion.**
13 **3. A separate affidavit shall be filed for each defendant named in the petition.**
14 **4. Such affidavit shall be filed no later than ninety days after the filing of the first**
15 **responsive pleading unless the court, for good cause shown, orders that such time be**
16 **extended for a period of time not to exceed an additional ninety days.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **5. If the plaintiff or his or her attorney fails to file such affidavit the court shall,**
16 **upon motion of any party, dismiss the action against such moving party without prejudice.**

17 **6. "License" for purposes of this section refers to a professional license obtained**
18 **pursuant to either chapter 326, 327, 339, or 340, RSMo.**

19 **7. "Similarly licensed professional" for purposes of this section shall mean an**
20 **individual licensed in this state, or any other state, in the same profession as the defendant**
21 **who possesses similar education, training, and experience and who is either actively**
22 **practicing or within five years of retirement from actively practicing substantially the**
23 **same specialty as the defendant.**