

HCS HB 208 -- CIVIL ACTIONS

SPONSOR: Byrd (Icet)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 8 to 5.

This substitute requires a plaintiff in an original action for damages in excess of \$3,000 against a licensed professional based on the rendering of or failure to render professional services to file an affidavit with the court. The affidavit must state that the plaintiff has obtained the written opinion of a similarly licensed professional declaring the defendant failed to use the care that a reasonably prudent and careful individual would have used under similar circumstances and that the failure to use reasonable care directly caused or contributed to the damages alleged in the petition. The affidavit must be filed no later than 90 days after the filing of the first responsive pleading. If the plaintiff fails to file the affidavit, the case must be dismissed without prejudice.

FISCAL NOTE: No impact on state funds in FY 2006, FY 2007, and FY 2008.

PROPONENTS: Supporters say that the bill will make the same affidavit of merit requirements of physicians apply to other professionals including engineers, accountants, architects, real estate agents, and veterinarians. It will help reduce unwarranted legal actions against these professionals.

Testifying for the bill were Representative Icet; Shafer Kline and Warren, Incorporated; Burns and McDonnell Engineering; American Council of Engineering Companies; Missouri Society of Professional Engineers; American Institute of Architects of Missouri; Missouri Association of Realtors; and Missouri Association of Landscape Architects.

OPPONENTS: Those who oppose the bill say that health care is a unique setting and the professionals affected by the bill work in very different settings and often don't readily have access to records involved in litigation. The bill may also limit access to the courts.

Testifying against the bill was Republican Attorneys for Civil Justice.

Amy Woods, Senior Legislative Analyst