

HCS HB 1793 -- STATUTE OF LIMITATION

SPONSOR: Redmon

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Litigation Reform by a vote of 5 to 2.

This bill provides that, in a claim against a health care provider for damages for malpractice or negligence when the defendant is served after the statute of limitations has expired, if such service is not made within 180 days of filing the petition, the court shall dismiss the action. Likewise, in an action for wrongful death when a defendant is served after the statute of limitations has expired and such service is not made within 180 days of the petition being filed, the court shall dismiss the action. In each case the dismissal shall be without prejudice, unless the plaintiff has previously taken or suffered a nonsuit, then the dismissal shall be with prejudice.

This bill is the same as SB 524 (2017).

PROPONENTS: Supporters say that the provisions of the law regarding service of a summons and petition on defendants are abused by plaintiffs who ask that service not be attempted until requested. This delays the lawsuit and can put the defendant at a disadvantage because evidence can become stale and, especially in a medical malpractice case, interfere with a defendant's ability to defend his or her care.

Testifying for the bill were Representative Redmon; Missouri Hospital Association; Missouri Organization of Defense Lawyers; Missouri State Medical Association; and the Missouri Hospital Association.

OPPONENTS: Those who oppose the bill say that there can be problems serving a health care provider that has moved out of state and that potential defendants cause delays by making it difficult to obtain medical records. In addition, the original version of the bill does not clarify if the dismissal is with or without prejudice and does not accommodate good faith efforts by a plaintiff to serve a defendant.

Testifying against the bill was the Missouri Association of Trial Attorneys (MATA).