



General Assembly

January Session, 2007

**Raised Bill No. 1384**

LCO No. 4867

\*04867\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE TOLLING OF THE STATUTE OF  
LIMITATIONS IN WRONGFUL DEATH CASES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-190a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) No civil action or apportionment complaint shall be filed to  
4 recover damages resulting from personal injury or wrongful death  
5 occurring on or after October 1, 1987, whether in tort or in contract, in  
6 which it is alleged that such injury or death resulted from the  
7 negligence of a health care provider, unless the attorney or party filing  
8 the action or apportionment complaint has made a reasonable inquiry  
9 as permitted by the circumstances to determine that there are grounds  
10 for a good faith belief that there has been negligence in the care or  
11 treatment of the claimant. The complaint, initial pleading or  
12 apportionment complaint shall contain a certificate of the attorney or  
13 party filing the action or apportionment complaint that such  
14 reasonable inquiry gave rise to a good faith belief that grounds exist  
15 for an action against each named defendant or for an apportionment  
16 complaint against each named apportionment defendant. To show the

17 existence of such good faith, the claimant or the claimant's attorney,  
18 and any apportionment complainant or the apportionment  
19 complainant's attorney, shall obtain a written and signed opinion of a  
20 similar health care provider, as defined in section 52-184c, which  
21 similar health care provider shall be selected pursuant to the  
22 provisions of said section, that there appears to be evidence of medical  
23 negligence and includes a detailed basis for the formation of such  
24 opinion. Such written opinion shall not be subject to discovery by any  
25 party except for questioning the validity of the certificate. The claimant  
26 or the claimant's attorney, and any apportionment complainant or  
27 apportionment complainant's attorney, shall retain the original written  
28 opinion and shall attach a copy of such written opinion, with the name  
29 and signature of the similar health care provider expunged, to such  
30 certificate. The similar health care provider who provides such written  
31 opinion shall not, without a showing of malice, be personally liable for  
32 any damages to the defendant health care provider by reason of  
33 having provided such written opinion. In addition to such written  
34 opinion, the court may consider other factors with regard to the  
35 existence of good faith. If the court determines, after the completion of  
36 discovery, that such certificate was not made in good faith and that no  
37 justiciable issue was presented against a health care provider that fully  
38 cooperated in providing informal discovery, the court upon motion or  
39 upon its own initiative shall impose upon the person who signed such  
40 certificate or a represented party, or both, an appropriate sanction  
41 which may include an order to pay to the other party or parties the  
42 amount of the reasonable expenses incurred because of the filing of the  
43 pleading, motion or other paper, including a reasonable attorney's fee.  
44 The court may also submit the matter to the appropriate authority for  
45 disciplinary review of the attorney if the claimant's attorney or the  
46 apportionment complainant's attorney submitted the certificate.

47 (b) Upon petition to the clerk of the court where the civil action will  
48 be filed to recover damages resulting from personal injury or wrongful  
49 death, an automatic ninety-day extension of the statute of limitations  
50 shall be granted to allow the reasonable inquiry required by subsection

51 (a) of this section. This period shall be in addition to other tolling  
52 periods.

53 (c) The failure to obtain and file the written opinion required by  
54 subsection (a) of this section shall be grounds for the dismissal of the  
55 action.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	52-190a

**Statement of Purpose:**

To clarify the applicability of the automatic ninety-day extension of the statute of limitations to allow reasonable inquiry in personal injury and wrongful death civil actions.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*