



General Assembly

Amendment

January Session, 2015

LCO No. 7666



Offered by:

REP. SRINIVASAN, 31st Dist.

REP. PERILLO, 113th Dist.

REP. CARTER, 2nd Dist.

REP. AMAN, 14th Dist.

To: Senate Bill No. 1028

File No. 659

Cal. No. 571

(As Amended by Senate Amendment Schedule "A")

"AN ACT CONCERNING THE TOLLING OF THE STATUTE OF LIMITATIONS FOR A NEGLIGENCE ACTION BROUGHT BY A MINOR."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 52-190a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2015, and*
5 *applicable to all cases pending on and cases filed on or after said date*):

6 (a) No civil action or apportionment complaint shall be filed to
7 recover damages resulting from personal injury or wrongful death
8 occurring on or after October 1, 1987, whether in tort or in contract, in
9 which it is alleged that such injury or death resulted from the

10 negligence of a health care provider, unless the attorney or party filing
11 the action or apportionment complaint has made a reasonable inquiry
12 as permitted by the circumstances to determine that there are grounds
13 for a good faith belief that there has been negligence in the care or
14 treatment of the claimant. The complaint, initial pleading or
15 apportionment complaint shall contain a certificate of the attorney or
16 party filing the action or apportionment complaint that such
17 reasonable inquiry gave rise to a good faith belief that grounds exist
18 for an action against each named defendant or for an apportionment
19 complaint against each named apportionment defendant. To show the
20 existence of such good faith, the claimant or the claimant's attorney,
21 and any apportionment complainant or the apportionment
22 complainant's attorney, shall obtain a written and signed opinion of a
23 similar health care provider, as defined in section 52-184c, which
24 similar health care provider shall be selected pursuant to the
25 provisions of said section, that there appears to be evidence of medical
26 negligence and includes a detailed basis for the formation of such
27 opinion. Such written opinion shall not be subject to discovery by any
28 party except for questioning the validity of the certificate. The claimant
29 or the claimant's attorney, and any apportionment complainant or
30 apportionment complainant's attorney, shall retain the original written
31 opinion and shall attach a copy of such written opinion, with the name
32 and signature of the similar health care provider expunged, to such
33 certificate. The similar health care provider who provides such written
34 opinion shall not, without a showing of malice, be personally liable for
35 any damages to the defendant health care provider by reason of
36 having provided such written opinion. In addition to such written
37 opinion, the court may consider other factors with regard to the
38 existence of good faith. If the court determines, after the completion of
39 discovery, that such certificate was not made in good faith and that no
40 justiciable issue was presented against a health care provider that fully
41 cooperated in providing informal discovery, the court upon motion or
42 upon its own initiative shall impose upon the person who signed such
43 certificate or a represented party, or both, an appropriate sanction
44 which may include an order to pay to the other party or parties the

45 amount of the reasonable expenses incurred because of the filing of the
46 pleading, motion or other paper, including a reasonable attorney's fee.
47 The court may also submit the matter to the appropriate authority for
48 disciplinary review of the attorney if the claimant's attorney or the
49 apportionment complainant's attorney submitted the certificate.

50 (b) Upon petition to the clerk of the court where the civil action will
51 be filed to recover damages resulting from personal injury or wrongful
52 death, an automatic ninety-day extension of the statute of limitations
53 shall be granted to allow the reasonable inquiry required by subsection
54 (a) of this section. This period shall be in addition to other tolling
55 periods.

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

59 (d) Not later than ninety days after a civil action or apportionment
60 complaint is filed, a claimant or the claimant's attorney, and any
61 apportionment complainant or the apportionment complainant's
62 attorney, shall file in court a written and signed opinion of a physician
63 licensed pursuant to section 20-13, or licensed in another state that has
64 same or greater requirements for licensure as a physician, that (1)
65 states the physician has reviewed each written opinion filed pursuant
66 to subsection (a) of this section, (2) states there appears to be evidence
67 that the medical negligence of each named defendant caused the injury
68 or death complained of, and (3) includes a detailed description of the
69 manner in which the medical negligence caused the injury or death.
70 The claimant shall give notice of such written opinion to each party's
71 attorney or, if the party is not represented by an attorney, to the party
72 himself or herself. If the written opinion required by this subsection is
73 not timely filed, the court shall, upon written motion, dismiss the
74 action."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2015, and applicable to all cases pending on and cases filed on or after said date</i>	52-190a