

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Willems**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARK. CODE ANN. §16-114-203 PERTAINING TO
9 STATUTE OF LIMITATIONS FOR MEDICAL MALPRACTICE INVOLVING A
10 MINOR; AND FOR OTHER PURPOSES."

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12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. Ark. Code Ann. §16-114-203 is amended to read as follows:

15 "16-114-203. Statute of limitations.

16 (a) Except as otherwise provided in this section, all actions for
17 medical injury shall be commenced within two (2) years after the cause of
18 action accrues.

19 (b) The date of the accrual of the cause of action shall be the date of
20 the wrongful act complained of and no other time. However, where the action
21 is based upon the discovery of a foreign object in the body of the injured
22 person which is not discovered and could not reasonably have been discovered
23 within such two-year period, the action may be commenced within one (1) year
24 from the date of discovery or the date the foreign object reasonably should
25 have been discovered, whichever is earlier.

26 (c) Except as otherwise provided in subsection (d) of this section, if
27 at the time at which the cause of action for medical injuries occurring from
28 obstetrical care shall or with reasonable diligence might have first been
29 known or discovered, the person to whom such claim has accrued shall be nine
30 (9) years of age or younger, then such minor or the person claiming through
31 such minor may, notwithstanding that the period of time limited pursuant to
32 subsection (a) of this section shall have expired, commence action on such
33 claim at any time within two (2) years next after the time at which the minor
34 shall have reached his ninth birthday, or shall have died, whichever shall
35 have first occurred. (d) If at the time at which the cause of action

1 for medical injuries occurring from obstetrical care shall or with reasonable
2 diligence might have been first known or discovered, the person to whom such
3 claim has accrued shall be a minor without a parent or legal guardian, then
4 such minor or the person claiming through such minor may, notwithstanding that
5 the period of time limited pursuant to subsection (a) of this section shall
6 have expired, commence action on such claim at any time within two (2) years
7 next after the time at which the minor shall have a parent or legal guardian
8 or shall have died, whichever shall have first occurred; provided, however,
9 that in no event shall the period of limitation begin to run prior to such
10 minor's ninth birthday unless such minor shall have died.

11 (e) Any person who had been adjudicated incompetent at the time of the
12 act, omission, or failure complained of, shall have until one (1) year after
13 that disability is removed in which to commence an action."

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15 SECTION 2. All provisions of this act of a general and permanent nature
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
17 Revision Commission shall incorporate the same in the Code.

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19 SECTION 3. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

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25 SECTION 4. All laws and parts of laws in conflict with this act are
26 hereby repealed.

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