

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Walters**

A Bill

SENATE BILL 247

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."

Subtitle

13 "AN ACT PERTAINING TO STATUTE OF LIMITATIONS FOR MEDICAL
14 MALPRACTICE INVOLVING A MINOR."

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

18 SECTION 1. Ark. Code Ann. §16-114-203 is amended to read as follows:
19 "16-114-203. Statute of limitations.

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

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

30 (c) A minor under the age of eighteen (18) years at the time of the
31 act, omission, or failure complained of, shall in any event have until his
32 nineteenth birthday in which to commence an action, except as follows:

33 (1) If at the time at which the cause of action for medical
34 injuries occurring from obstetrical care shall or with reasonable diligence
35 might have first been known or discovered the person to whom such claim has

1 accrued shall be nine (9) years of age or younger, then such minor or the
2 person claiming through such minor may, notwithstanding that the period of
3 time limited pursuant to subsection (a) of this section shall have expired,
4 commence action on such claim at any time within two (2) years next after the
5 time at which the minor shall have reached his ninth birthday, or shall have
6 died, whichever shall have first occurred.

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

18 (d) Any person who had been adjudicated incompetent at the time of the
19 act, omission, or failure complained of, shall have until one (1) year after
20 that disability is removed in which to commence an action."
21

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

25
26 SECTION 3. If any provision of this act or the application thereof to
27 any person or circumstance is held invalid, such invalidity shall not affect
28 other provisions or applications of the act which can be given effect without
29 the invalid provision or application, and to this end the provisions of this
30 act are declared to be severable.

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

34 /s/ Senator Walters
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As Engrossed: 3/26/93 3/29/93 4/7/93 4/7/93

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