

Introduced: 2/23/67  
Referred: Judiciary

1 IN THE SENATE

BY HAGGLAND

2 SENATE BILL NO. 142

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to medical malpractice actions."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 09.55 is amended by adding new sections to read:

9 Article 6. MALPRACTICE ACTIONS.

10 Sec. 09.55.530. BURDEN OF PROOF. (a) In a malpractice action,  
11 based on the negligence of a physician licensed under AS 08.64, the  
12 plaintiff shall have the burden of proving

13 (1) the degree of knowledge or skill possessed or the  
14 degree of care ordinarily exercised by physicians of the same specialty  
15 practicing in the community where the defendant practices;

16 (2) that the defendant physician either lacked this degree  
17 of knowledge or skill or failed to exercise this degree of care; and

18 (3) that as a proximate result of this lack of knowledge or  
19 skill or the failure to exercise this degree of care the plaintiff  
20 suffered injuries that would not otherwise have been incurred.

21 (b) In malpractice actions there shall be no presumption of  
22 negligence on the part of the defendant.

23 Sec. 09.55.540. JURY INSTRUCTIONS. In medical malpractice actions  
24 the jury shall be instructed that the plaintiff has the burden of  
25 proving, by a preponderance of the evidence, the negligence of the  
26 physician. The jury shall be further instructed that injury alone is  
27 not proof of the physician's negligence.