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DIVISION OF LEGAL SERVICES

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MEMORANDUM

April 2, 1993

SUBJECT: Sectional Summary of SB 123

TO: Senator Steve Rieger

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have requested a sectional summary of the above described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Provides that a malpractice action against a health care provider by a person less than two years of age on the date of the negligent act or omission must be brought before the person's eighth birthday, except as provided under (b) of this section.

Section 2. Requires that a judgment resulting from medical malpractice bear a prejudgment rate of interest equal to the 12th Federal Reserve district discount rate.

Section 3. Requires that a person who files a lawsuit against a health care provider for medical malpractice must also submit the claim to the court for arbitration. Establishes a procedure for review of the claim by an arbitrator, including examination of evidence and witnesses, a settlement conference, and conduct of a hearing.

Section 4. Repeals requirements for an expert advisory panel and inserts a requirement that in an action for damages resulting from negligence by a health care provider, the court shall appoint an expert medical advisor, unless the court determines that an expert advisory opinion is not necessary. Also makes conforming amendments necessary to replace the advisory panel with a single expert advisor.

Section 5. Applicability section.

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Section 6. Contingent effective date. This Act takes effect only if another enactment establishing the Alaska Health Care Authority is signed into law by the Governor.

MFF:mi
93-053.mai

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 123

Revision Date: April 7, 1993
Title: "An Act relating to civil actions;
and providing for an effective date."
Sponsor: Senate HESS Committee
Requestor: Senate HESS Committee

Department Affected: Law
BRU: Legal Services
Component: Operations
COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Richard I. Peques / For
Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: April 7, 1993
Date: April 7, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 123

ANALYSIS: (continued)

This bill amends the Code of Civil Procedure by making substantial changes in the way that medical malpractice claims are handled.

First, the bill amends AS 09.10 by adding a new section that provides that an action based on professional negligence may not be brought against a health care provider by a person who is, on the date of the alleged negligent act or omission less than two years of age, unless the action is brought before the person's eighth birthday.

Second, AS 09.30.070(a) would be amended to provide that the rate of interest on judgments and decrees resulting from medical malpractice bears a prejudgment rate of interest equal to the 12th Federal Reserve district discount rate as determined under AS 45.45.010(b).

Third, the bill repeals and reenacts AS 09.55.535 to require that a person who files an action for damages against a health care provider resulting from medical malpractice, shall also submit the claim to the court for arbitration. Under current law, the use of arbitration is discretionary on the part of the parties to an action. This section of the bill also sets out straight forward arbitration procedures and replaces the current three-member arbitration board with a single arbitrator.

Fourth, the bill also amends AS 09.95.536 by doing away with the three-person expert advisory panel and replaces it with a single expert medical advisor to advise the court and the parties in an action for damages due to personal injury or death based upon the provision of professional services by a health care provider.

Finally, as provided in Section 6, the provisions of this bill takes effect only if an Act establishing the Alaska Health Care Authority is passed by the Eighteenth Alaska State Legislature during its First Regular Session and is signed into law by the governor.

All of these provision are designed to streamline the state's existing laws that deal with medical malpractice claims. On behalf of the Division of Risk Management, the Department of Law defends the state in malpractice claims brought as a result of medical services provided by the Alaska Psychiatric Institute and medical services provided to persons incarcerated in the state's correctional institutions. Although we cannot speculate as to the amount of savings, the bill's streamlining effects should result in a reduction in the state's cost for handling and settling malpractice claims.

