

SECOND REGULAR SESSION

SENATE BILL NO. 809

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Pre-filed December 18, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5514S.011

AN ACT

To repeal sections 516.105 and 537.100, RSMo, and to enact in lieu thereof two new sections relating to service of process after the statute of limitations has expired for filing an action.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 516.105 and 537.100, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 516.105 and 537.100, to read as follows:

516.105. 1. All actions against physicians, hospitals, dentists, registered or licensed practical nurses, optometrists, podiatrists, pharmacists, chiropractors, professional physical therapists, mental health professionals licensed under chapter 337, and any other entity providing health care services and all employees of any of the foregoing acting in the course and scope of their employment, for damages for malpractice, negligence, error or mistake related to health care shall be brought within two years from the date of occurrence of the act of neglect complained of, except that:

(1) In cases in which the act of neglect complained of is introducing and negligently permitting any foreign object to remain within the body of a living person, the action shall be brought within two years from the date of the discovery of such alleged negligence, or from the date on which the patient in the exercise of ordinary care should have discovered such alleged negligence, whichever date first occurs; and

(2) In cases in which the act of neglect complained of is the negligent failure to inform the patient of the results of medical tests, the action for failure to inform shall be brought within two years from the date of the discovery of such alleged negligent failure to inform, or from the date on which the patient in the

19 exercise of ordinary care should have discovered such alleged negligent failure to
20 inform, whichever date first occurs; except that, no such action shall be brought
21 for any negligent failure to inform about the results of medical tests performed
22 more than two years before August 28, 1999. For purposes of this subdivision,
23 the act of neglect based on the negligent failure to inform the patient of the
24 results of medical tests shall not include the act of informing the patient of the
25 results of negligently performed medical tests or the act of informing the patient
26 of erroneous test results; and

27 (3) In cases in which the person bringing the action is a minor less than
28 eighteen years of age, such minor shall have until his or her twentieth birthday
29 to bring such action.

30 In no event shall any action for damages for malpractice, error, or mistake be
31 commenced after the expiration of ten years from the date of the act of neglect
32 complained of or for two years from a minor's eighteenth birthday, whichever is
33 later.

34 **2. Any service on a defendant by a plaintiff after the statute of**
35 **limitations set forth in subsection 1 of this section has expired or after**
36 **the expiration of any extension of the time provided to commence an**
37 **action pursuant to law shall be made within one hundred eighty days**
38 **of the filing of the petition. If such service is not made on a defendant**
39 **within one hundred eighty days of the filing of the petition, the court**
40 **shall dismiss the action against the defendant.**

537.100. 1. Every action instituted under section 537.080 shall be
2 commenced within three years after the cause of action shall accrue; provided,
3 that if any defendant, whether a resident or nonresident of the state at the time
4 any such cause of action accrues, shall then or thereafter be absent or depart
5 from the state, so that personal service cannot be had upon such defendant in the
6 state in any such action heretofore or hereafter accruing, the time during which
7 such defendant is so absent from the state shall not be deemed or taken as any
8 part of the time limited for the commencement of such action against him; and
9 provided, that if any such action shall have been commenced within the time
10 prescribed in this section, and the plaintiff therein take or suffer a nonsuit, or
11 after a verdict for him the judgment be arrested, or after a judgment for him the
12 same be reversed on appeal or error, such plaintiff may commence a new action
13 from time to time within one year after such nonsuit suffered or such judgment
14 arrested or reversed; and in determining whether such new action has been begun

15 within the period so limited, the time during which such nonresident or absent
16 defendant is so absent from the state shall not be deemed or taken as any part
17 of such period of limitation.

18 **2. Any service on a defendant by a plaintiff after the statute of**
19 **limitations set forth in subsection 1 of this section has expired or after**
20 **the expiration of any extension of the time provided to commence an**
21 **action pursuant to law shall be made within one hundred eighty days**
22 **of the filing of the petition. If such service is not made on a defendant**
23 **within one hundred eighty days of the filing of the petition, the court**
24 **shall dismiss the action against the defendant.**

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