

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 1051

**DATE:** March 30, 2001

**Version:** First Engrossment

**Authors:** Smith

**Subject:** Medical Malpractice: Certification of Experts and Statute of Limitations

**Analyst:** Deborah K. McKnight, 651-296-5056

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: [www.house.mn/hrd](http://www.house.mn/hrd).

---

### Overview

Current law requires a medical malpractice complaint to include an affidavit that the plaintiff's attorney has consulted an expert who gave an opinion that one or more defendants departed from the required standard of care and thus injured the plaintiff. Within 180 days after the suit is filed, the plaintiff's lawyer must identify the expert(s) and the gist of the testimony that will be provided at trial. The bill changes the penalty for failing to indicate the testimony that is expected.

The bill also amends the limitation period for a wrongful death action due to medical malpractice.

### Section

- 1 **Penalty for noncompliance.** Amends the current provision that failure to identify the expert who will testify results in mandatory dismissal of the case with prejudice. Provides for granting a motion to dismiss under this provision for defects in the affidavit or in answers to interrogatories if: (1) the motion identifies the deficiencies; (2) the time for hearing on the motion is at least 45 days after the date of service of the motion; and (3) before the hearing plaintiff fails to serve on the defendant the necessary affidavit or interrogatories to correct the deficiencies.
- 2 **Wrongful death.** Amends the wrongful death statute of limitations in cases involving medical malpractice. The limitation is three years after the date of death but never longer than the time frame provided for medical malpractice actions not involving death (i.e., four years after treatment ends).
- 3 **Effective date; application.** Effective August 1, 2001, for causes of action arising on or after that date.