

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/HB 277 — Sovereign Immunity

by Judiciary Committee; Civil Justice Subcommittee; and Rep. Goodson and others (CS/CS/SB 594 by Community Affairs Committee; Judiciary Committee; and Senator Hays)

A statute of limitations bars legal claims after a specified period of time, usually based on when the injury occurred or was discovered. Currently, claims against the state or its subdivisions for a negligent or wrongful act are subject to a four-year statute of limitations. However, there is an exception for medical malpractice claims against the state or its subdivisions, which are subject to a two-year limitations period. The bill adds “wrongful death” to the list of exceptions governed by the two-year statute of limitations. Thus, the bill reduces the statute of limitations for wrongful death actions against the state or its subdivisions from four years to two years.

The bill conforms other portions of the statute governing tort claims against the government with the new statute of limitations. Currently, claimants have three years to give notice of their claim to an agency. The agency then has six months, or 90 days for medical malpractice claims, to dispose of the claim. Suit cannot be brought before notice has been given and a final disposition of the claim has been rendered; except that, if no agency action occurs for six months, or 90 days for medical malpractice claims, it is considered an automatic denial of the claim. Currently, the statute of limitations still runs during the period that the agency has to dispose of the claim. The bill reduces the period that a claimant has to give notice to an agency of its wrongful death claim, mandating that a claimant give notice to the agency within two years of the claim accruing. Additionally, the bill adds wrongful death claims to the 90-day period for agency action already in place for medical malpractice claims. Thus, if no agency action occurred on a wrongful death claim for 90 days, such inaction would result in an automatic final denial of the claim. Finally, the bill tolls the statute of limitations for wrongful death and medical malpractice claims during the time period provided for agency action.

If approved by the Governor, these provisions take effect July 1, 2011, and apply to causes of action accruing on or after that date.

Vote: Senate 35-2; House 117-0