

**Senate Study Bill 1136 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON HEALTH  
AND HUMAN SERVICES BILL BY  
CHAIRPERSON KLIMESH)

**A BILL FOR**

1 An Act relating to medical malpractice claims, including  
2 expert witness certificate of merit affidavits, and including  
3 effective date and applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 147.140, subsection 1, paragraphs a and b,  
2 Code 2025, are amended to read as follows:

3 a. In any action for personal injury or wrongful death  
4 against a health care provider based upon the alleged negligence  
5 in the practice of that profession or occupation or in patient  
6 care, which includes a cause of action for which expert testimony  
7 is necessary to establish a prima facie case, the plaintiff  
8 shall, prior to the commencement of discovery in the case and  
9 within sixty days of the defendant's answer, serve upon the  
10 defendant a notarized certificate of merit affidavits ~~affidavits~~  
11 signed by ~~an~~ each expert witness with respect to ~~the issue~~ all  
12 issues of standard of care, and an alleged breach of the standard  
13 of care, and causation to be litigated in the action. ~~The~~ Each  
14 expert witness must meet the qualifying standards of section  
15 147.139.

16 b. A All certificate of merit ~~affidavit~~ affidavits must be  
17 notarized, signed by ~~the~~ each expert witness, and certify the  
18 ~~purpose~~ purposes for calling the expert witness by providing  
19 under the oath of the expert witness all of the following:

20 (1) The expert witness's statement of familiarity with the  
21 applicable standard of care.

22 (2) The expert witness's statement that the standard of care  
23 was breached by the health care provider named in the petition.

24 (3) The expert witness's statement that the breach caused the  
25 personal injury or wrongful death.

26 Sec. 2. Section 147.140, subsection 6, Code 2025, is amended  
27 to read as follows:

28 6. Failure to ~~substantially~~ comply with subsection 1 shall  
29 result, upon motion, in dismissal with prejudice of each cause  
30 of action as to which expert witness testimony is necessary to  
31 establish a prima facie case.

32 Sec. 3. Section 147.140, Code 2025, is amended by adding the  
33 following new subsection:

34 NEW SUBSECTION. 6A. A motion challenging a certificate of  
35 merit shall be made no later than sixty days from the date the

1 certificate of merit was filed. Once a motion to challenge  
2 a certificate of merit is filed, a party shall not withdraw  
3 and refile the certificate, except to provide missing expert  
4 or notary signatures, nor shall a party voluntarily dismiss the  
5 action and refile the certificate of merit.

6 Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate  
7 importance, takes effect upon enactment.

8 Sec. 5. APPLICABILITY. This Act applies to causes of action  
9 that arise on or after the effective date of this Act.

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#### EXPLANATION

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The inclusion of this explanation does not constitute agreement with

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the explanation's substance by the members of the general assembly.

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This bill relates to expert witness certificate of merit  
14 affidavits in medical malpractice claims. A certificate of merit  
15 affidavit is a sworn statement from a medical expert that a  
16 claim for personal injury or wrongful death against a health  
17 care provider has merit. In an action for personal injury or  
18 wrongful death against a health care provider based upon alleged  
19 negligence in the practice of that profession or in patient  
20 care, the bill requires the plaintiff, within 60 days of the  
21 defendant's answer, to serve upon the defendant a notarized  
22 certificate of merit affidavit for each expert witness who will  
23 testify with respect to the issues of standard of care, breach  
24 of standard of care, and causation. A certificate of merit  
25 affidavit must be notarized, signed by the expert witness, and  
26 certify the purpose for calling the expert witness by providing  
27 under the oath of the expert witness the expert witness's  
28 statement of familiarity with the applicable standard of care;  
29 statement that the standard of care was breached by the health  
30 care provider; and statement that the breach of the standard of  
31 care was the cause of the injury or death.

32

Under current law, failure to substantially comply with the  
33 certificate of merit affidavit requirements results, upon motion,  
34 in dismissal with prejudice of each cause of action as to which  
35 expert witness testimony is necessary to establish a prima facie

1 case. The bill strikes the word substantially.

2 The bill provides any motion to challenge a certificate of  
3 merit must be made within 60 days from the date the certificate  
4 of merit was filed. A party may not withdraw and refile a  
5 certificate of merit unless it is to provide the missing expert  
6 witness's signature or a notary signature. A party is also not  
7 allowed to voluntarily dismiss the action and refile it.

8 The bill takes effect upon enactment and applies to causes of  
9 action that arise on or after that date.

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