

## VETOES

(1) A claim filed after July 1, 1986, shall be dismissed, without prejudice, if the claimant fails to file a certificate of a qualified expert with the Director attesting of departure from standards of care, and that the departure from standards of care is the proximate cause of the alleged injury, within 90 days from the date of the complaint.

(2) A claim filed after July 1, 1986, shall be adjudicated in favor of the claimant on the issue of liability, if the defendant disputes liability and fails to file a certificate of a qualified expert attesting to compliance with standards of care, or that the departure from standards of care is not the proximate cause of the alleged injury, within 120 days from the date the claimant filed the certificate of qualified expert set forth in paragraph (1) of this subsection. If the defendant does not dispute liability, a certificate of a qualified expert is not required under this subsection."

This provision was enacted as Chapter 640, Laws of 1986 (Senate Bill 559).

2/

Of course, as in most civil actions, defendant has no burden to prove himself or herself not liable and, consequently, need not call as a witness any expert.

3/

The Senate President's statement said that:

"I ... have great concern regarding this particular provision which may constitute a constitutional impermissible restriction and limitation upon medical malpractice litigants' rights to pursue or defend a common law tort action in the courts of this State."

House Bill No. 1285

AN ACT concerning

Health Claims Arbitration - Certificate of Expert -  
Party, Employee, or Partner

FOR the purpose of prohibiting a party or certain other persons from serving as ~~the party's-own~~ a party's expert for the purposes of a certification in a health claims arbitration proceeding.

BY adding to

Article - Courts and Judicial Proceedings