

**ASSEMBLY, No. 104**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman CHRISTOPHER P. DEPHILLIPS**

**District 40 (Bergen, Essex, Morris and Passaic)**

**SYNOPSIS**

Establishes a Special Medical Malpractice Part in the Superior Court.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   **AN ACT** establishing a Special Medical Malpractice Part in the  
2       Superior Court and supplementing Title 2B of the New Jersey  
3       Statutes.

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5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6       *of New Jersey:*

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8       1. Legislative findings. The Legislature of the State of New  
9       Jersey finds and declares that:

10      a. the quality and consistency of decision-making in the  
11      resolution of disputes in medical malpractice cases needs to be  
12      improved in order to enhance the fairness of the process; and

13      b. steps should be taken which will improve quality and  
14      allocation of judicial resources with regard to medical malpractice  
15      cases; and

16      c. a Special Medical Malpractice Part should be created in  
17      order to afford accessible and efficient access and allocation of  
18      judicial resources throughout the State of New Jersey; and

19      d. the appointment of persons to sit as judges of the Special  
20      Medical Malpractice Part should take into account the knowledge of  
21      the law governing medical malpractice and experience in medical  
22      malpractice matters.

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24      2. There shall be established in the Law Division of the  
25      Superior Court a Special Medical Malpractice Part.

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27      3. The following matters shall be cognizable in the Special  
28      Medical Malpractice Part of the Law Division of the Superior  
29      Court:

30      a. any action for injury against a health care provider based on  
31      professional negligence, as defined in section 4 of P.L. , c. (C. )  
32      (now pending before the Legislature as section 4 of this bill);

33      b. any action concerning disputes surrounding medical  
34      malpractice liability insurance as defined in subsection d. of section  
35      3 of P.L.1975, c.301 (C.17:30D-3);

36      c. medical malpractice disputes where the parties have agreed  
37      in writing that the Special Medical Malpractice Part shall have  
38      jurisdiction; and

39      d. any other matters as may be provided by statute.

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41      4. As used in P.L. , c. (C. )(now pending before this  
42      Legislature as this bill):

43      "Health care provider" means any person licensed in this State to  
44      practice medicine and surgery, chiropractic, podiatry, dentistry,  
45      optometry, psychology, pharmacy, nursing, physical therapy or as a  
46      bioanalytical laboratory director or hospital.

47      "Professional negligence" means a negligent act or omission to  
48      act by a health care provider in the rendering of professional

1 services, which act or omission is the proximate cause of a personal  
2 injury or wrongful death, provided that such services are within the  
3 scope of services for which the health care provider is licensed and  
4 which are not within any restriction imposed by the licensing board  
5 or licensed hospital.

6  
7 5. The Supreme Court of New Jersey may adopt Rules of Court  
8 appropriate or necessary to effectuate the purposes of this act.

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10 6. This act shall take effect on the 180th day after the date of  
11 enactment.

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14 STATEMENT

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16 This bill would create a Special Medical Malpractice Part of the  
17 Law Division. The Special Medical Malpractice Part would have  
18 jurisdiction with respect to any action for injury against a health  
19 care provider based on professional negligence. A "health care  
20 provider" is defined as any person licensed in this State to practice  
21 medicine and surgery, chiropractic, podiatry, dentistry, optometry,  
22 psychology, pharmacy, nursing, physical therapy or as a  
23 bioanalytical laboratory director or hospital. The bill defines  
24 "professional negligence" as a negligent act or omission to act by a  
25 health care provider in the rendering of professional services, which  
26 act or omission is the proximate cause of a personal injury or  
27 wrongful death, provided that such services are within the scope of  
28 services for which the health care provider is licensed and which are  
29 not within any restriction imposed by the licensing board or  
30 licensed hospital. The Special Medical Malpractice Part would also  
31 hear any action concerning disputes surrounding medical  
32 malpractice liability insurance. The bill also provides that the  
33 Special Medical Malpractice Part would have jurisdiction over  
34 disputes where the parties have agreed in writing to such  
35 jurisdiction.

36 By establishing a separate part within the Law Division of the  
37 Superior Court, this bill eliminates the need for a separate clerk, for  
38 example, and for separate facilities.