**A** **BILL**

TO AMEND SECTION 15‑79‑125, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NOTICE OF INTENT TO FILE SUIT AND FILING OF A SUMMONS AND COMPLAINT IN A MEDICAL MALPRACTICE CIVIL ACTION AND MANDATORY MEDIATION BEFORE THE FILING OF A SUMMONS AND COMPLAINT, SO AS TO REQUIRE A DEFENDANT, WITHIN THIRTY DAYS OF NOTICE OF INTENT TO FILE SUIT, TO FILE A NOTICE OF APPEARANCE AND IF HE FAILS TO DO SO, TO ALLOW THE PLAINTIFF TO FILE A MOTION TO DISPENSE WITH THE MEDIATION AND PROCEED WITH THE INITIATION OF THE CIVIL ACTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 15‑79‑125(C) of the 1976 Code, as added by Act 32 of 2005, is amended to read:

“(C) Within ninety days and no later than one hundred twenty days from the service of the Notice of Intent to File Suit, the parties shall participate in a mediation conference unless an extension for no more than sixty days is granted by the court based upon a finding of good cause. Within thirty days of being served with the Notice of Intent to File Suit, the defendant shall file and serve a Notice of Appearance. If the defendant fails to file and serve a Notice of Appearance within this time frame, and that fact is made to appear by affidavit or otherwise, the clerk of court shall enter his nonappearance upon the calendar (file book). Upon the clerk’s entry of nonappearance, the plaintiff may dispense with the pre‑suit mediation requirements as provided in this section and proceed with initiating a civil action by filing a summons and complaint pursuant to the South Carolina Rules of Civil Procedure. Unless inconsistent with this section, the Circuit Court Alternative Dispute Resolution Rules in effect at the time of the mediation conference for all or any part of the State shall govern the mediation process, including compensation of the mediator and payment of the fees and expenses of the mediation conference. The parties otherwise are responsible for their own expenses related to mediation pursuant to this section.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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