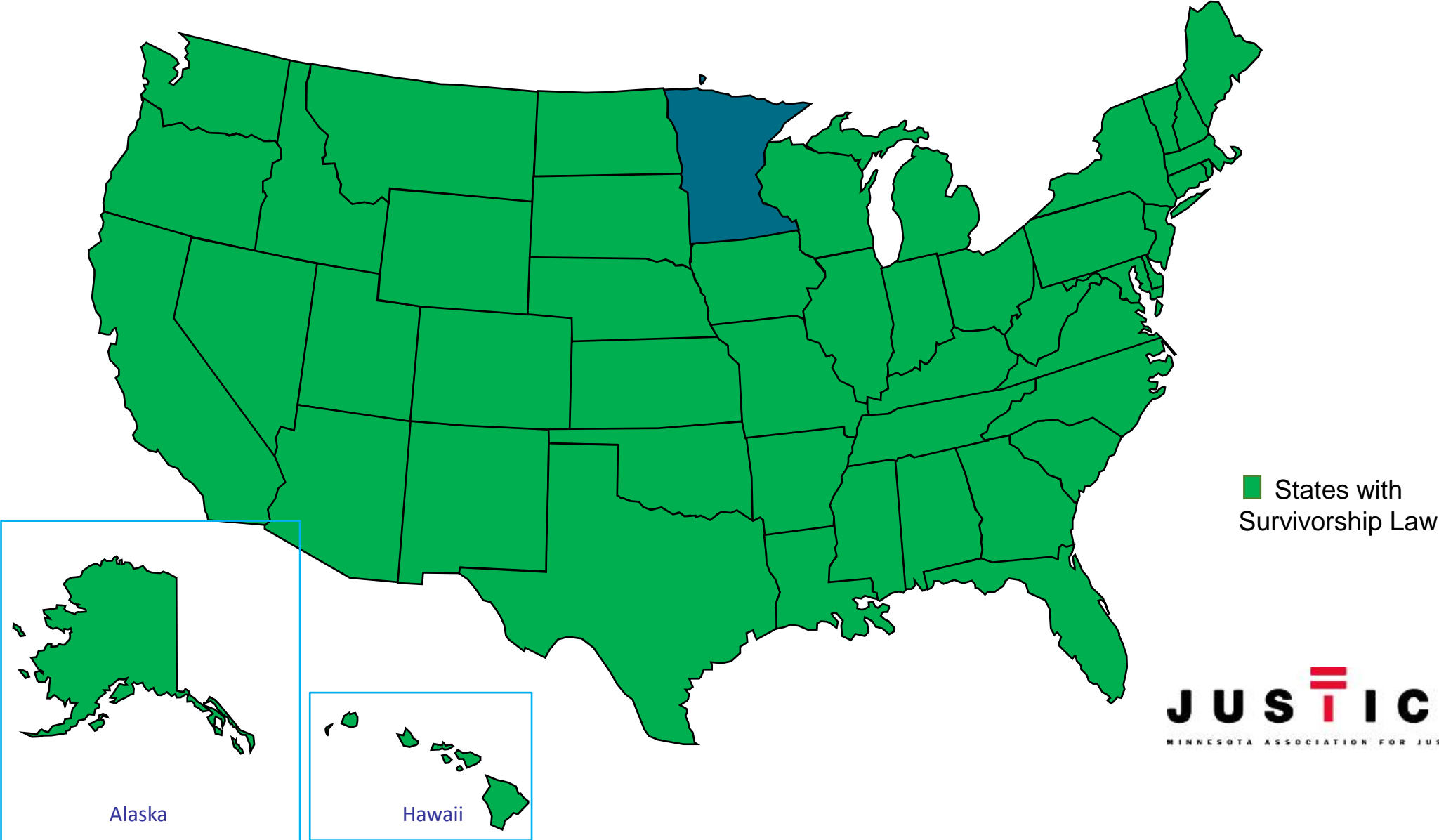


SF 997- States with Survivorship Law

Minnesota is the only state that mandates a claim dies with the injured person.





Filings By WCL Type

Report Run Date: 2/27/2023

Page 1 of 2

2018 Thru 2022

**Accurate conciliation counts are unavailable from 1/1/2004 to 3/31/2008 and are not included in this report

Location / WCL Type	2018	2019	2020	2021	2022						21-22	18-22	Total
Statewide-Combined Jurisdiction													
Personal Injury	<u>2,402</u>	<u>2,318</u>	<u>2,215</u>	<u>2,045</u>	<u>1,762</u>						-14%	-27%	<u>10,742</u>
Contract	<u>6,792</u>	<u>8,910</u>	<u>7,002</u>	<u>7,058</u>	<u>6,658</u>						-6%	-2%	<u>36,420</u>
Wrongful Death	<u>143</u>	<u>114</u>	<u>107</u>	<u>107</u>	<u>108</u>						1%	-24%	<u>579</u>
Malpractice	<u>73</u>	<u>77</u>	<u>102</u>	<u>85</u>	<u>109</u>						28%	49%	<u>446</u>
Property Damage	<u>203</u>	<u>216</u>	<u>176</u>	<u>163</u>	<u>169</u>						4%	-17%	<u>927</u>
Condemnation	<u>142</u>	<u>111</u>	<u>111</u>	<u>149</u>	<u>118</u>						-21%	-17%	<u>631</u>
Conciliation Appeal	<u>547</u>	<u>543</u>	<u>279</u>	<u>478</u>	<u>539</u>						13%	-1%	<u>2,386</u>
Harassment	<u>11,901</u>	<u>11,947</u>	<u>11,307</u>	<u>12,616</u>	<u>13,549</u>						7%	14%	<u>61,320</u>
Employment	<u>376</u>	<u>375</u>	<u>296</u>	<u>299</u>	<u>286</u>						-4%	-24%	<u>1,632</u>
Other Civil	<u>8,180</u>	<u>8,072</u>	<u>6,350</u>	<u>6,432</u>	<u>6,975</u>						8%	-15%	<u>36,009</u>
Major Civil Total:	<u>30,759</u>	<u>32,683</u>	<u>27,945</u>	<u>29,432</u>	<u>30,273</u>						3%	-2%	<u>151,092</u>
Grand Total:	30,759	32,683	27,945	29,432	30,273						3%	-2%	151,092

[Click to View How MNJAD Case Statistics are calculated](#)

[Click to View Disposition Criteria](#)

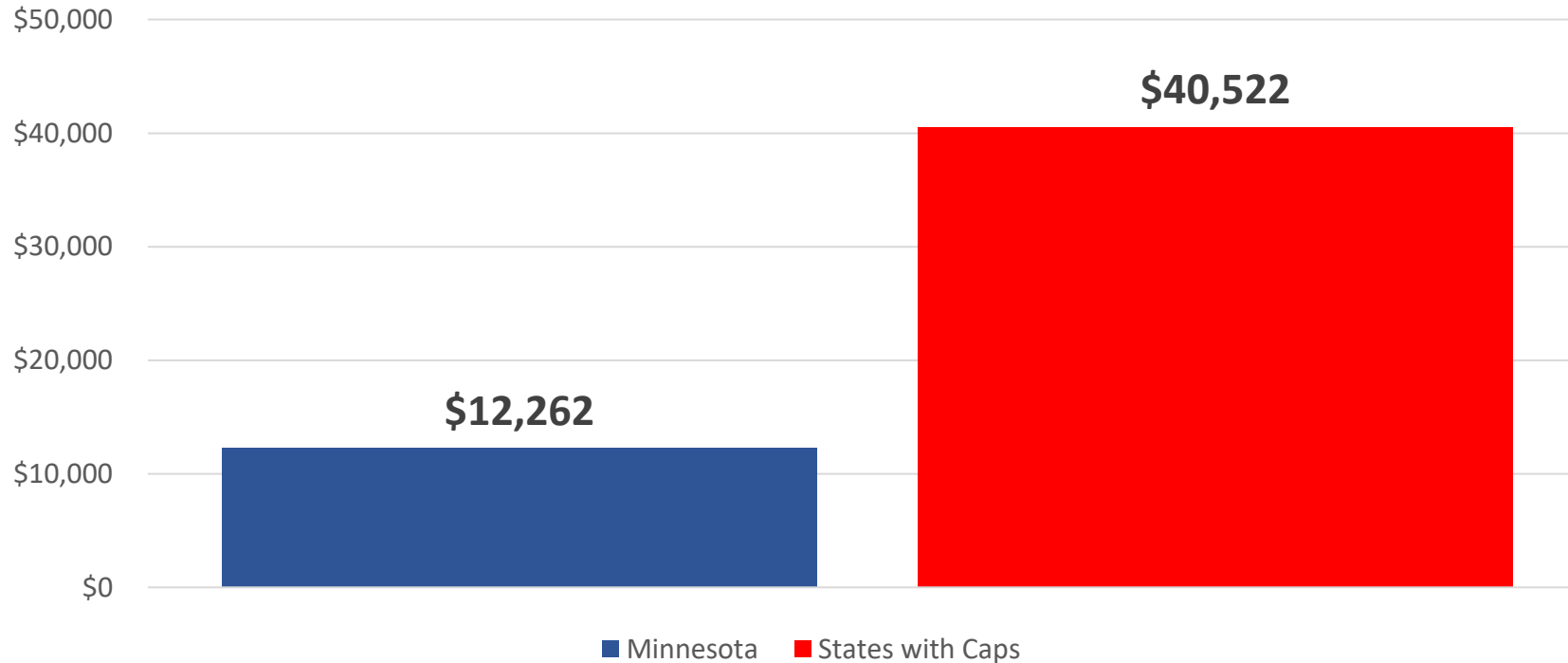
[Click to View Case Statistics Criteria](#)

* District and County totals include only locations selected for this report

How Do Rates in Minnesota Compare?

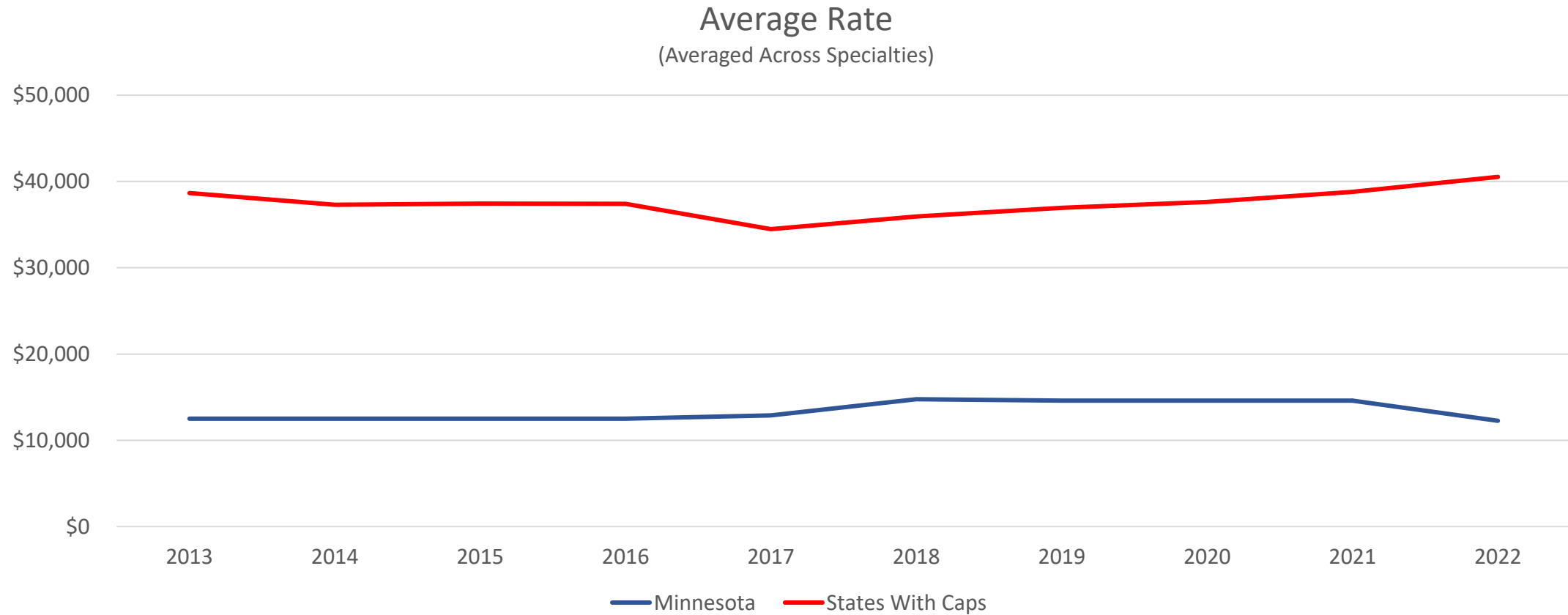
Average Rates 2022

Rates averaged across internal medicine, general surgery, Ob/Gyn



Medical malpractice insurance rates for doctors averaged across specialties are 231% higher in states with caps than they are in Minnesota.

How Do Rates in Minnesota Compare to States With Caps?



Medical malpractice insurance rates for doctors averaged across specialties have consistently been the lowest in the country and are significantly lower than the average rates in states with caps.

StarTribune



Robin Grunhoyd talked about the abuse suffered by her father. State lawmakers soon may consider changing what's known as Minnesota's Survival Law, which requires that a personal injury case be dropped if the victim dies of unrelated causes.

In Minnesota, personal injury abuse lawsuits die with the victims

- Article by: Brandon Stahl
- Star Tribune
- January 20, 2014 - 9:34 AM

The sexual and physical assaults of 15 residents in an Albert Lea nursing home in 2008 outraged Minnesotans, led to the criminal convictions of two nurse aides and prompted a change in state law.

Victims and their family members sought justice by filing lawsuits against the nursing assistants, the home and its owner, the Evangelical Lutheran Good Samaritan Society. Yet by October 2011, all of the civil cases in Minnesota had been dismissed. The reason? The victims had died.

State lawmakers soon may consider changing what's known as Minnesota's Survival Law, which requires that a personal injury case be dropped if the victim dies of unrelated causes. Advocates for the change say Minnesota is one of only four states with such a requirement, and they point to the Albert Lea case as the prime example of what's wrong with the law.

"There was nowhere we could go for justice," said Jan Reshetar, whose mother-in-law, Grace Reshetar, was spat on and groped by aides. She died in February 2009. "The laws need to be changed. Accountability needs to be put in place."

A bill to eliminate the Survival Law was defeated last year during the last day of session in a tie vote in the Senate, after the Minnesota Insurance Federation and Minnesota Hospital Association lobbied against it.

Defending the law

Those groups argue that Minnesota law is designed to compensate the victim of an injury, not family members.

“If somebody suffers pain and suffering, and would normally be eligible for pain and suffering awards, those are for that person and not their heirs,” said Mark Kulda, vice president of public affairs with the Insurance Federation of Minnesota. “The damage was not to the families of the people. The damage was to the people themselves.”

The Insurance Federation and Hospital Association vow to continue opposing the bill, while it is supported by the Minnesota Association for Justice, a trial lawyers’ group.

Proponents of changing the law say family members also suffer in cases like the one in Albert Lea.

“You can’t forget it,” said Myrna Sorensen, the daughter of Opal Sande, one of the residents who was abused. “Every time I see something from my mother, you think of what happened to her.”

Aides at the Good Samaritan home pinched, poked and groped residents who were in advanced states of dementia, investigators found. The humiliating abuse prompted the Legislature to make it a felony to severely neglect or abuse the elderly and other vulnerable adults. A Minnesota Department of Health investigation found that four nurse aides, two of them juveniles, were responsible for the abuse, but did not cite the nursing home itself. By October 2010, two nurse aides pleaded guilty to disorderly conduct against a vulnerable adult.

But in May 2011, an arbitrator who reviewed the case for one of the victims found that Good Samaritan was responsible and “could have and should have” prevented the abuse.

In the lawsuit against Good Samaritan, the victims and their family members alleged the home should have protected them from the nurse aides and learned about the abuse far earlier.

Supporters of changing Minnesota’s Survival Law also say it encourages health care providers and insurers to move as slowly as possible in court.

If providers “can spend some money on lawyers hoping to drag the case out,” said Joel Smith, an attorney who represented the Albert Lea families, “all they’ve done is paid a few thousand dollars to lawyers instead of hundreds of thousands, if not millions, of dollars to resolve the case.”

Smith and his law partner, Mark Kosieradzki, accused Good Samaritan of doing just that. But Bill Hart, an attorney who represented Good Samaritan in the Albert Lea cases, denied that the home tried to delay the cases, saying a settlement was offered just a few months after the lawsuits were filed.

Hart said it's not necessary to change Minnesota's Survival Law.

"If there's any indication that a case is not proceeding because one side is delaying it, that's what a judge is for," he said.

The law requiring dismissal of injury cases after a person dies has its origins in English common law and has been effect in Minnesota since at least 1849. Most other states had similar laws until the 19th century, when legislatures began enacting exceptions because the standard was considered too harsh, according to a 1982 Minnesota Supreme Court ruling.

The ruling found part of the Survival Law unconstitutional and struck a provision that applied to lawsuit defendants who are perpetrators of harm. The law has been unchanged since then.

It's unknown how often cases are dropped due to the Survival Law. When Minneapolis personal injury attorney Jim Carey first took on the case for the Albert Lea victims in 2010, he said he didn't know about the law.

"This was one of the most tragic things in my career watching those cases get dismissed," he said. "We're talking about World War II heroes, schoolteachers, All-American good citizens."

An analysis of the legislative proposal by the Minnesota Management and Budget Department estimated that if the bill passed, it would result in two more personal injury cases a year.

Smith said it would probably be far more than that. His firm, which specializes in elder abuse, typically turns down dozens of cases a year due to the risk that the clients will die before their claims are resolved in court, he said.

"If there's a risk the client will die, in our legal system, that often means we can't afford to take the case," Smith said.

His firm researched Survival Laws in other states and found that only in Minnesota, Colorado, Idaho and Indiana do injury claims die with the plaintiff. That statistic was presented to the Minnesota Senate last year, which approved a version of the bill 57-4 and sent it to the House.

Kulda of the Insurance Federation acknowledged that the majority of states allow injury lawsuits to continue after the plaintiff's death but said those states have caps on damages. Minnesota's bill didn't include that.

'We tried, Mom'

The House made changes to the bill that exempted nursing homes from the law and would have increased how much families could seek in wrongful-death suits. The bill was sent back to the Senate, where the changes made by the House were met with surprise by both Republicans and Democrats.

“This is a major change in liability and it’s going to affect your insurance rates,” Sen. James Metzen, DFL-South St. Paul, said before the Senate vote.

An author of the Senate bill, Sen. Ron Latz, DFL-St. Louis Park, said he expects the legislation to be taken up again in the upcoming session.

Even if the bill passes, it would not be retroactive, leaving out families of the Albert Lea victims. Sorenson said that after the lawsuit was dismissed, she visited her mother’s grave to say she was sorry for letting her down.

“I said, ‘We tried, Mom.’ ”

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