

JAN 21 2011

A BILL FOR AN ACT

RELATING TO LIMITATION OF ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 657, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:
4 "§657- Civil action arising from sexual offenses;
5 application; certificate of merit. (a) Notwithstanding any law
6 to the contrary, an action for recovery of damages based on
7 physical, psychological, or other injury or condition suffered
8 as a result of the direct conduct of another committed against a
9 minor that would constitute a violation of part V or VI of
10 chapter 707 or an offense that was in effect before the
11 effective date of this section and that, if committed on or
12 after the effective date of this section, has the same elements
13 of an offense listed in this section, may be commenced at any
14 time.
15 (b) Any cause of action that is barred as of the effective
16 date of this section because the applicable period of limitation
17 has expired is revived and a civil action may be commenced



1 within one year after the effective date of this section subject
2 to subsection (c).

3 (c) Any cause of action brought pursuant to subsection (b)
4 shall be:

5 (1) Commenced for conduct that was committed against the
6 minor thirty-five years or less before the effective
7 date of this section; or

8 (2) Commenced within thirty-five years after the minor
9 attained the age of eighteen years.

10 (d) In any civil action filed pursuant to subsection (b),
11 a certificate of merit shall be filed by the attorney for the
12 plaintiff. The certificate of merit shall contain a notarized
13 statement by a psychologist who is licensed pursuant to chapter
14 465, a marriage and family therapist who is licensed pursuant to
15 chapter 451J, a mental health counselor who is licensed pursuant
16 to chapter 453D, or a licensed clinical social worker who is
17 licensed pursuant to chapter 467E and who is knowledgeable in
18 the relevant facts and issues involved in the particular action.

19 The certificate of merit shall state in reasonable detail the
20 facts and opinions that the psychologist, marriage and family
21 therapist, mental health counselor, or licensed clinical social
22 worker has relied on for concluding that there is a reasonable



1 basis to believe that the plaintiff has been subject to one or
 2 more acts that would constitute an offense listed in subsection
 3 (a). The psychologist, marriage and family therapist, mental
 4 health counselor, or licensed clinical social worker providing
 5 the statement may not be a party to the litigation. Only one
 6 certificate of merit shall be filed for each action, even if
 7 more than one defendant is named in the complaint or is
 8 subsequently named."

9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This Act shall take effect upon its approval.

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Report Title:

Limitation of Actions; Sexual Offenses Against Minors

Description:

Eliminates the statute of limitations for civil actions brought by persons subjected to sexual offenses as a minor. Revives for one year certain actions for which the statute of limitations had previously lapsed.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

