
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 by a minor arising from the sexual abuse of the minor by an
9 adult may be commenced against the natural person who committed
10 the act of sexual abuse. The time for commencement of the
11 action shall be within:
12 (1) Eight years of the date the plaintiff attains the age
13 of majority; or
14 (2) Three years of the date the plaintiff discovers or
15 reasonably should have discovered that psychological
16 injury or illness occurring after the age of majority
17 was caused by the sexual abuse.



1 A civil cause of action for sexual abuse of a minor shall
2 be based upon sexual acts that constituted or would have
3 constituted a criminal offense under part V or VI of chapter
4 707.

5 (b) For a period of two years following the effective date
6 of this Act, victims of child sexual abuse that occurred in this
7 State who have been barred from filing suit against their
8 abusers by virtue of the expiration of the former civil statute
9 of limitations shall be permitted to file those claims in the
10 circuit courts of this State against the natural person who
11 committed the act of sexual abuse. A claim may also be brought
12 under this subsection against a legal entity, except the State,
13 if the person committing the act of sexual abuse against the
14 minor was employed by an institution, agency, firm, business,
15 corporation, or other public or private legal entity that owed a
16 duty of care to the victim, or the accused and the minor were
17 engaged in an activity over which the legal entity had some
18 degree of responsibility or control. Damages against the legal
19 entity shall be awarded under this subsection only if there is a
20 finding of gross negligence on the part of the legal entity.

21 (c) A person against whom a suit is filed may recover
22 attorney's fees if the court determines that a false accusation



1 was made with no basis in fact and with malicious intent. A
2 verdict in favor of the accused shall not be the sole basis for
3 a determination that an accusation was false. The court must
4 make an independent finding of an improper motive to award
5 attorney's fees under this section.

6 (d) In any civil action filed pursuant to subsection (a)
7 or (b), a certificate of merit shall be filed by the attorney
8 for the plaintiff. The certificate of merit shall contain a
9 notarized statement by a psychologist who is licensed pursuant
10 to chapter 465, a marriage and family therapist who is licensed
11 pursuant to chapter 451J, a mental health counselor who is
12 licensed pursuant to chapter 453D, or a licensed clinical social
13 worker who is licensed pursuant to chapter 467E and who is
14 knowledgeable in the relevant facts and issues involved in the
15 particular action. The certificate of merit shall state in
16 reasonable detail the facts and opinions that the psychologist,
17 marriage and family therapist, mental health counselor, or
18 licensed clinical social worker has relied on to conclude that
19 there is a reasonable basis to believe that the plaintiff has
20 been subject to one or more acts that would constitute an
21 offense listed in subsection (a). The psychologist, marriage
22 and family therapist, mental health counselor, or licensed



1 clinical social worker providing the statement may not be a
2 party to the litigation."

3 SECTION 2. The revisor of statutes shall insert the
4 effective date of this Act in the appropriate places in
5 section 1 of this Act.

6 SECTION 3. New statutory material is underscored.

7 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Limitation of Actions; Sexual Offenses Against Minors

Description:

Extends the statute of limitations for civil actions brought by persons subjected to sexual offenses as a minor against the person who committed the act. Revives for a two-year period certain actions for which the statute of limitations had previously lapsed. Authorizes suits against the abuser's employer under limited circumstances. Authorizes a court to award attorney's fees to a defendant when a false accusation was made with no basis in fact and with malicious intent. Effective July 1, 2050. (SB217 HD1)

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

