
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. A claim may also be brought under this
11 subsection against a legal entity if the person committing the
12 act of sexual abuse against the minor was employed by an
13 institution, agency, firm, business, corporation, or other
14 public or private legal entity that owed a duty of care to the
15 victim, or the accused and the minor were engaged in an activity
16 over which the legal entity had some degree of responsibility or
17 control. Damages against the legal entity shall be awarded
18 under this subsection only if there is a finding of gross



1 negligence on the part of the legal entity. The time for
2 commencement of the action under this subsection shall be
3 within:

4 (1) Eight years of the date the plaintiff attains the age
5 of majority; or

6 (2) Three years of the date the plaintiff discovers or
7 reasonably should have discovered that psychological
8 injury or illness occurring after the age of majority
9 was caused by the sexual abuse.

10 A civil cause of action for sexual abuse of a minor shall
11 be based upon sexual acts that constituted or would have
12 constituted a criminal offense under part V or VI of chapter
13 707.

14 (b) For a period of two years following the effective date
15 of this Act, victims of child sexual abuse that occurred in this
16 State who have been barred from filing suit against their
17 abusers by virtue of the expiration of the former civil statute
18 of limitations shall be permitted to file those claims in the
19 circuit courts of this State against the natural person who
20 committed the act of sexual abuse. A claim may also be brought
21 under this subsection against a legal entity if the person
22 committing the act of sexual abuse against the minor was



1 employed by an institution, agency, firm, business, corporation,
2 or other public or private legal entity that owed a duty of care
3 to the victim, or the accused and the minor were engaged in an
4 activity over which the legal entity had some degree of
5 responsibility or control. Damages against the legal entity
6 shall be awarded under this subsection only if there is a
7 finding of gross negligence on the part of the legal entity.

8 (c) A person against whom a suit is filed may recover
9 attorney's fees if the court determines that a false accusation
10 was made with no basis in fact and with malicious intent. A
11 verdict in favor of the accused shall not be the sole basis for
12 a determination that an accusation was false. The court must
13 make an independent finding of an improper motive to award
14 attorney's fees under this section.

15 (d) In any civil action filed pursuant to subsection (a)
16 or (b), a certificate of merit shall be filed by the attorney
17 for a plaintiff who is twenty-six years of age or older at the
18 time the action is commenced. The certificate of merit shall
19 contain a notarized statement by a psychologist who is licensed
20 pursuant to chapter 465, a marriage and family therapist who is
21 licensed pursuant to chapter 451J, a mental health counselor who
22 is licensed pursuant to chapter 453D, or a licensed clinical



1 social worker who is licensed pursuant to chapter 467E and who
2 is knowledgeable in the relevant facts and issues involved in
3 the particular action. The certificate of merit shall state in
4 reasonable detail the facts and opinions that the psychologist,
5 marriage and family therapist, mental health counselor, or
6 licensed clinical social worker has relied on to conclude that
7 there is a reasonable basis to believe that the plaintiff has
8 been subject to one or more acts that would constitute an
9 offense listed in subsection (a). The psychologist, marriage
10 and family therapist, mental health counselor, or licensed
11 clinical social worker providing the statement may not be a
12 party to the litigation."

13 SECTION 2. The revisor of statutes shall insert the
14 effective date of this Act in the appropriate places in
15 section 1 of this Act.

16 SECTION 3. New statutory material is underscored.

17 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 and revives such actions for a two-year period 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 under certain circumstances. Requires a plaintiff 26 or older to file certificate of merit. Effective July 1, 2050. (SB217 HD2)

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

