



GOV. MSG. NO. 1169

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 24, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

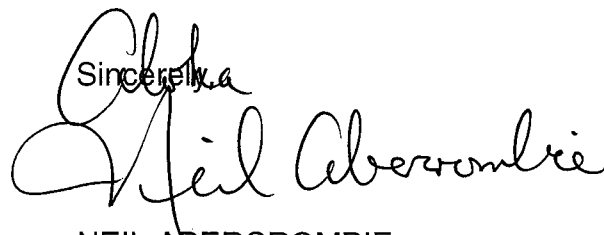
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 24, 2012, the following bill was signed into law:

SB2588 SD1 HD3

RELATING TO LIMITATION OF ACTIONS.
Act 068 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on APR 24 2012

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

ACT 068

S.B. NO. 2588
S.D. 1
H.D. 3

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, no 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 any
9 person shall be commenced against the person who committed the
10 act of sexual abuse more than:

11 (1) Eight years after the eighteenth birthday of the minor
12 or the person who committed the act of sexual abuse
13 attains the age of majority, whichever occurs later;
14 or

15 (2) Three years after the date the minor discovers or
16 reasonably should have discovered that psychological
17 injury or illness occurring after the age of minor's



1 eighteenth birthday was caused by the sexual abuse,
2 whichever comes later.

3 A civil cause of action for the sexual abuse of a minor
4 shall be based upon sexual acts that constituted or would have
5 constituted a criminal offense under part V or VI of chapter
6 707.

7 (b) For a period of two years after the effective date of
8 Act , Session Laws of Hawaii 2012, a victim of child sexual
9 abuse that occurred in this State who had been barred from
10 filing a claim against the victim's abuser due to the expiration
11 of the applicable civil statute of limitations that was in
12 effect prior to the effective date of Act , Session Laws of
13 Hawaii 2012, may file a claim in a circuit court of this State
14 against the person who committed the act of sexual abuse.

15 A claim may also be brought under this subsection against a
16 legal entity, except the State or its political subdivisions,
17 if:

18 (1) The person who committed the act of sexual abuse
19 against the victim was employed by an institution,
20 agency, firm, business, corporation, or other public
21 or private legal entity that owed a duty of care to
22 the victim; or



1 (2) The person who committed the act of sexual abuse and
2 the victim were engaged in an activity over which the
3 legal entity had a degree of responsibility or
4 control.

5 Damages against the legal entity shall be awarded under
6 this subsection only if there is a finding of gross negligence
7 on the part of the legal entity.

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

16 (d) In any civil action filed pursuant to subsection (a)
17 or (b), a certificate of merit shall be filed by the attorney
18 for the plaintiff, and shall be sealed and remain confidential.
19 The certificate of merit shall include a notarized statement by
20 a:

21 (1) Psychologist licensed pursuant to chapter 465;



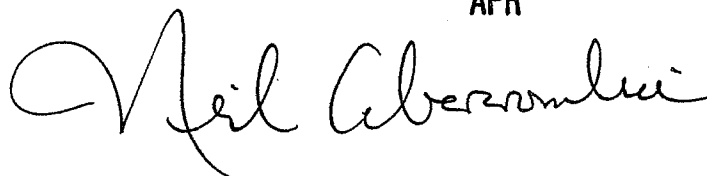
- 1 (2) Marriage and family therapist licensed pursuant to
- 2 chapter 451J;
- 3 (3) Mental health counselor licensed pursuant to chapter
- 4 453D; or
- 5 (4) Clinical social worker licensed pursuant to chapter
- 6 467E;
- 7 who is knowledgeable in the relevant facts and issues involved
- 8 in the action, who is not a party to the action.

9 The notarized statement included in the certificate of
10 merit shall set forth in reasonable detail the facts and
11 opinions relied upon to conclude that there is a reasonable
12 basis to believe that the plaintiff was subject to one or more
13 acts that would result in an injury or condition specified in
14 (a)."

15 SECTION 2. New statutory material is underscored.

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

APPROVED this 24 day of APR, 2012



GOVERNOR OF THE STATE OF HAWAII