

JAN 18 2013

A BILL FOR AN ACT

RELATING TO LIMITATION OF ACTION.

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

1 SECTION 1. Section 657-1.8, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "[§657-1.8] **Civil action arising from sexual offenses;**
4 **application; certificate of merit.** (a) Notwithstanding any law
5 to the contrary, no action for recovery of damages based on
6 physical, psychological, or other injury or condition suffered
7 by a minor arising from the sexual abuse of the minor by any
8 person shall be commenced against the person who committed the
9 act of sexual abuse more than:

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

14 (2) Three years after the date the minor discovers or
15 reasonably should have discovered that psychological
16 injury or illness occurring after the age of minor's
17 eighteenth birthday was caused by the sexual abuse,
18 whichever comes later.



1 A civil cause of action for the sexual abuse of a minor
2 shall 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 after [April 24, 2012], a~~
6 ~~victim of child sexual abuse that occurred in this State who had~~
7 ~~been barred from filing a claim against the victim's abuser due~~
8 ~~to the expiration of the applicable civil statute of limitations~~
9 ~~that was in effect prior to [April 24, 2012], may file a claim~~
10 ~~in a circuit court of this State against the person who~~
11 ~~committed the act of sexual abuse.]~~

12 A claim may also be brought under this subsection against a
13 legal entity, except the State or its political subdivisions,
14 if:

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

20 (2) The person who committed the act of sexual abuse and
21 the victim were engaged in an activity over which the



1 legal entity had a degree of responsibility or
2 control.

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

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

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

- 19 (1) Psychologist licensed pursuant to chapter 465;
- 20 (2) Marriage and family therapist licensed pursuant to
- 21 chapter 451J;



1 (3) Mental health counselor licensed pursuant to chapter
2 453D; or

3 (4) Clinical social worker licensed pursuant to chapter
4 467E;

5 who is knowledgeable in the relevant facts and issues involved
6 in the action, who is not a party to the action.

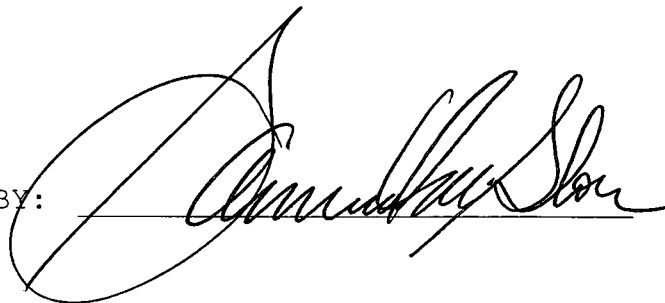
7 The notarized statement included in the certificate of
8 merit shall set forth in reasonable detail the facts and
9 opinions relied upon to conclude that there is a reasonable
10 basis to believe that the plaintiff was subject to one or more
11 acts that would result in an injury or condition specified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

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken.

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

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INTRODUCED BY:



Report Title:

Limitation of Actions; Sexual Offenses Against Minors.

Description:

Repeals two year extension on statute of limitations for bringing a claim.

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

