
A BILL FOR AN ACT

RELATING TO LIMITATION OF ACTIONS.

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

1 SECTION 1. Section 657-1.8, Hawaii Revised Statutes, is
2 amended as follows:

3 1. Amending subsection (b) to read:

4 "(b) [~~For a period of two years after [April 24, 2012], a~~
5 A victim of child sexual abuse that occurred in this State [~~who~~
6 ~~had been barred from filing a claim against the victim's abuser~~
7 ~~due to the expiration of the applicable civil statute of~~
8 ~~limitations that was in effect prior to [April 24, 2012],~~] may
9 file a claim in a circuit court of this State against the person
10 who committed the act of sexual abuse[-] if the victim is barred
11 from filing a claim against the victim's abuser due to the
12 expiration of the applicable civil statute of limitations that
13 was in effect prior to April 24, 2012, and has not attained the
14 age of fifty-five.

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



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

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

10 Damages against the legal entity shall be awarded under
11 this subsection only if there is a finding of [~~gross~~] negligence
12 on the part of the legal entity."

13 2. Amending subsection (d) to read:

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). The court, plaintiff, or any person
13 enumerated under paragraphs (1) to (4) shall not be required to
14 disclose the contents of the sealed certificate of merit to
15 fulfill the requirements under this section."

16 SECTION 2. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act, upon its approval, shall take effect
19 on July 1, 2050.

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Report Title:

Statute of Limitations; Civil Actions; Sexual Abuse of a Minor

Description:

Allows a victim of child sexual abuse to bring a civil action against victim's abuser or an entity, except for the State or counties, when the entity was negligent, if the statute of limitations for filing a civil claim has lapsed and the victim has not yet attained the age of fifty-five. Prohibits the court, plaintiff, or certain individuals from being required to disclose the contents of the sealed certificate of merit. Effective 07/01/50. (SD1)

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