

## ACT 250

S.B. NO. 2601

A Bill for an Act Relating to Sexual Abuse of Minors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that child sexual abuse is extremely prevalent and that most children do not immediately disclose the fact that they were abused. In the United States, one in five girls and one in twenty boys is a victim of childhood sexual abuse, and studies show that between sixty and eighty per cent of survivors withhold disclosure. Of those who delay disclosure until adulthood, the average delay has been found to be approximately twenty years, with some survivors delaying up to fifty years.

The legislature further finds that there are many reasons children delay disclosing sexual abuse. These reasons range from their particular stage of cognitive development, limited capacity to understand what happened, inability to recognize that the sexual abuse may cause dysfunction in their adult life, confusion about their feelings, or limited ability to adequately express complaints, to the fact that a majority of survivors know the perpetrator and may fear retaliation or harmful impacts on their family or community. Moreover, when survivors disclose abuse, they may also be subjected to disbelief, accusations, silencing, and retraumatizing reactions by the recipients of the disclosure.

Accordingly, the purpose of this Act is to:

- (1) Expand the time period by which a civil action for childhood sexual abuse committed on or after July 1, 2024, may be initiated; and
- (2) Allow a court to order the personnel of a legal entity against whom a claim is brought to undergo training on trauma-informed response to allegations of sexual abuse.

This Act shall not be deemed retroactive. This Act shall only apply prospectively and does not revive any action that has passed the existing statute of limitations.

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

**“§657-1.8 Civil action arising from sexual offenses; application; certificate of merit[.]; trauma-informed response.** (a) Notwithstanding any law to the contrary, ~~[except as provided under subsection (b).]~~ no action for recovery of damages based on physical, psychological, or other injury or condition suffered by a victim when the victim was a minor, arising from the sexual abuse of the

~~[minor]~~ victim by any person when the victim was a minor, shall be commenced against the person who committed the act of sexual abuse more than:

- (1) For sexual abuse committed before July 1, 2024:
  - ~~[(1)]~~ (A) Eight years after the eighteenth birthday of the [minor or the person who committed the act of sexual abuse attains the age of majority, whichever occurs later;]<sup>1</sup> victim; or
  - ~~[(2)]~~ (B) Three years after the date the [minor] victim discovers or reasonably should have discovered that psychological injury or illness occurring after the [minor's] victim's eighteenth birthday was caused by the sexual abuse,  
whichever [comes] occurs later[-]; or
- (2) For sexual abuse committed on or after July 1, 2024:
  - (A) Thirty-two years after the eighteenth birthday of the victim; or
  - (B) Five years after the date the victim discovers or reasonably should have discovered that psychological injury or illness occurring after the victim's eighteenth birthday was caused by the sexual abuse,  
whichever occurs later.

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

~~(b) [For a period of eight years after April 24, 2012, a victim of child sexual abuse that occurred in this State may file a claim in a circuit court of this State against the person who committed the act of sexual abuse if the victim is barred from filing a claim against the victim's abuser due to the expiration of the applicable civil statute of limitations that was in effect prior to April 24, 2012.]~~

A claim may also be brought under this ~~[subsection]~~ section against a legal entity if:

- (1) The person who committed the act of sexual abuse against the victim was employed by an institution, agency, firm, business, corporation, or other public or private legal entity that owed a duty of care to the victim; or
- (2) The person who committed the act of sexual abuse and the victim were engaged in an activity over which the legal entity had a degree of responsibility or control.

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

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

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

- ~~[(1)]~~ Psychologist licensed pursuant to chapter 465;
- ~~[(2)]~~ (1) Marriage and family therapist licensed pursuant to chapter 451J;
- ~~[(3)]~~ (2) Mental health counselor licensed pursuant to chapter 453D;  
~~[or]~~
- (3) Psychologist licensed pursuant to chapter 465; or

(4) Clinical social worker licensed pursuant to chapter 467E[;], who is knowledgeable in the relevant facts and issues involved in the action, and who is not a party to the action.

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

(e) With respect to a legal entity against whom a claim is brought pursuant to subsection (b), a plaintiff may request, and a court may order, the personnel of the legal entity to undergo training on trauma-informed response to allegations of sexual abuse. As used in this subsection, “trauma-informed response” may include:

- (1) Fully integrating research about the effects and impacts of trauma into policies, procedures, and practices;
- (2) Understanding the ways in which stress and trauma may affect attention, cognition, behavior, and memory processes;
- (3) Creating an environment that is safe, non-judgmental, and free of gratuitous re-triggering; and
- (4) Listening to and documenting victims’ statements without judgment.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 9, 2024.)

**Note**

1. Not stricken.