
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 at any time following the commission of
11 the act or acts that constituted the sexual abuse. A civil
12 cause of action for sexual abuse of a minor shall be based upon
13 sexual acts that constituted or would have constituted a
14 criminal offense under part V or VI of chapter 707.
15 Notwithstanding any law to the contrary, including chapter 662,
16 Hawaii Revised Statutes, a claim may also be commenced at any
17 time following the commission of the act or acts that
18 constituted the sexual abuse under this subsection against a



1 legal entity, including the State, if the person committing the
2 act of sexual abuse against the minor was employed by an
3 institution, agency, firm, business, corporation, or other
4 public or private legal entity that owed a duty of care to the
5 victim, or the accused and the minor were engaged in an activity
6 over which the legal entity had some degree of responsibility or
7 control. Damages against the legal entity shall be awarded
8 under this subsection only if there is a finding of gross
9 negligence on the part of the legal entity. Nothing in this
10 subsection shall be deemed to affect a cause of action otherwise
11 provided by statute for recovery of damages for the sexual abuse
12 of a minor if the liability is based on simple negligence.

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



1 business, corporation, or other public or private legal entity
2 that owed a duty of care to the victim, or the accused and the
3 minor were engaged in an activity over which the legal entity
4 had some degree of responsibility or control. Damages against
5 the legal entity shall be awarded under this subsection only if
6 there is a finding of gross negligence on the part of the legal
7 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 each plaintiff at the time the action is commenced. The
18 certificate of merit shall contain a notarized statement by a
19 psychologist who is licensed pursuant to chapter 465, a marriage
20 and family therapist who is licensed pursuant to chapter 451J, a
21 mental health counselor who is licensed pursuant to chapter
22 453D, a clinical social worker who is licensed pursuant to



1 chapter 467E, or a registered nurse who is licensed pursuant to
2 chapter 457, and who is knowledgeable in the relevant facts and
3 issues involved in the particular action. The certificate of
4 merit shall state in reasonable detail the facts and opinions
5 that the psychologist, marriage and family therapist, mental
6 health counselor, licensed clinical social worker, or registered
7 nurse has relied on to conclude that there is a reasonable basis
8 to believe that the plaintiff has been subject to one or more
9 acts that would constitute an offense listed in subsection (a).
10 The psychologist, marriage and family therapist, mental health
11 counselor, licensed clinical social worker, or registered nurse
12 providing the statement may not be a party to the litigation."

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

16 SECTION 3. New statutory material is underscored.

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



Report Title:

Limitation of Actions; Sexual Offenses Against Minors

Description:

Eliminates the statute of limitations for civil actions brought by persons subjected to sexual offenses as a minor against the natural person who committed the act or acts constituting the sexual offense. Authorizes suits against a legal entity in certain circumstances. Revives for a two-year period certain actions for which the statute of limitations had previously lapsed. Authorizes a court to award attorney's fees to a defendant under certain circumstances. Requires a certificate of merit for all plaintiffs. (CD1)

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

