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# 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.



**Report Title:**

Limitation of Actions; Sexual Offenses Against Minors

**Description:**

Extends the statute of limitations for civil actions brought by persons subjected to sexual offenses as a minor against the person who committed the act. Revives for a two-year period certain actions for which the statute of limitations had previously lapsed. Excludes the State and its political subdivisions as legal entities against whom a claim for gross negligence may be brought during the two-year window period. Authorizes a court to award attorney's fees to a defendant when an accusation of sexual abuse was made with no basis in fact and with malicious intent. (SB2588 HD3)

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

