

JAN 19 2024

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 be appropriately designated
3 and to read as follows:

4 "§657- Civil action arising from sexual offenses against
5 adult victims; certificate of merit. (a) For a period of one
6 year after the effective date of Act _____, Session Laws of
7 Hawaii 2024, a person eighteen years of age or older who is a
8 victim of sexual abuse that occurred in this State may file a
9 claim in a circuit court of this State against the person who
10 committed the act of sexual abuse if the victim is barred from
11 filing a claim against the victim's abuser due to the expiration
12 of the applicable civil statute of limitations that was in
13 effect prior to the effective date of Act _____, Session Laws of
14 Hawaii 2024.

15 A claim may also be brought under this subsection against a
16 legal entity 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 (b) A civil cause of action for the sexual abuse of a
14 person more than eighteen years of age shall be based upon
15 sexual acts that constituted or would have constituted a
16 criminal offense under part V of chapter 707.

17 (c) A defendant against whom a civil action is commenced
18 may recover attorney's fees if the court determines that a false
19 accusation was made with no basis in fact and with malicious
20 intent. A verdict in favor of the defendant shall not be the
21 sole basis for a determination that an accusation had no basis



1 in fact and was made with malicious intent. The court shall
2 make an independent finding of an improper motive prior to
3 awarding attorney's fees under this section.

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

- 8 (1) Psychologist licensed pursuant to chapter 465;
9 (2) Marriage and family therapist licensed pursuant to
10 chapter 451J;
11 (3) Mental health counselor licensed pursuant to chapter
12 453D; or
13 (4) Clinical social worker licensed pursuant to chapter
14 467E;

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

17 The notarized statement included in the certificate of
18 merit shall set forth in reasonable detail the facts and
19 opinions relied upon to conclude that there is a reasonable
20 basis to believe that the plaintiff was subject to one or more



1 acts that would result in an injury or condition specified in
2 subsection (b)."

3 SECTION 2. New statutory material is underscored.

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

5

INTRODUCED BY:

A handwritten signature in black ink, appearing to be a stylized 'M' or similar character, written over a horizontal line.

S.B. NO. 2439

Report Title:

Limitation of Actions; Sexual Offenses Against Adults

Description:

Extends the statute of limitations for civil actions brought by persons subjected to sexual offenses as an adult against the person who committed the act. Revives for a one year period certain actions for which the statute of limitations had previously lapsed. Allows a claim to be brought against legal entities during the one year window period if there is a finding of gross negligence. 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.

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

