

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 872

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 5805 (MCL 600.5805), as amended by 2012 PA 582,
and by adding section 5851b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5805. (1) A person shall not bring or maintain an action
2 to recover damages for injuries to persons or property unless,
3 after the claim first accrued to the plaintiff or to someone
4 through whom the plaintiff claims, the action is commenced within
5 the periods of time prescribed by this section.

6 **(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PERIOD**
7 **OF LIMITATIONS IS 3 YEARS AFTER THE TIME OF THE DEATH OR INJURY FOR**
8 **ALL ACTIONS TO RECOVER DAMAGES FOR THE DEATH OF A PERSON OR FOR**
9 **INJURY TO A PERSON OR PROPERTY.**

1 (3) ~~(2)~~ Subject to subsections ~~(3)~~ and ~~(4)~~ **TO (6)**, the period
2 of limitations is 2 years for an action charging assault, battery,
3 or false imprisonment.

4 (4) ~~(3)~~ ~~The~~ **SUBJECT TO SUBSECTION (6), THE** period of
5 limitations is 5 years for an action charging assault or battery
6 brought by a person who has been assaulted or battered by his or
7 her spouse or former spouse, an individual with whom he or she has
8 had a child in common, or a person with whom he or she resides or
9 formerly resided.

10 (5) ~~(4)~~ ~~The~~ **SUBJECT TO SUBSECTION (6), THE** period of
11 limitations is 5 years for an action charging assault and battery
12 brought by a person who has been assaulted or battered by an
13 individual with whom he or she has or has had a dating
14 relationship.

15 (6) **THE PERIOD OF LIMITATIONS IS 10 YEARS FOR AN ACTION TO**
16 **RECOVER DAMAGES SUSTAINED BECAUSE OF CRIMINAL SEXUAL CONDUCT. FOR**
17 **PURPOSES OF THIS SUBSECTION, IT IS NOT NECESSARY THAT A CRIMINAL**
18 **PROSECUTION OR OTHER PROCEEDING HAVE BEEN BROUGHT AS A RESULT OF**
19 **THE CONDUCT OR, IF A CRIMINAL PROSECUTION OR OTHER PROCEEDING WAS**
20 **BROUGHT, THAT THE PROSECUTION OR PROCEEDING RESULTED IN A**
21 **CONVICTION OR ADJUDICATION.**

22 (7) ~~(5)~~ The period of limitations is 2 years for an action
23 charging malicious prosecution.

24 (8) ~~(6)~~ Except as otherwise provided in this chapter, the
25 period of limitations is 2 years for an action charging
26 malpractice.

27 (9) ~~(7)~~ The period of limitations is 2 years for an action

1 against a sheriff charging misconduct or neglect of office by the
2 sheriff or the sheriff's deputies.

3 **(10)** ~~(8)~~—The period of limitations is 2 years after the
4 expiration of the year for which a constable was elected for
5 actions based on the constable's negligence or misconduct as
6 constable.

7 **(11)** ~~(9)~~—The period of limitations is 1 year for an action
8 charging libel or slander.

9 ~~—— (10) Except as otherwise provided in this section, the period~~
10 ~~of limitations is 3 years after the time of the death or injury for~~
11 ~~all actions to recover damages for the death of a person, or for~~
12 ~~injury to a person or property.~~

13 ~~—— (11) The period of limitations is 5 years for an action to~~
14 ~~recover damages for injury to a person or property brought by a~~
15 ~~person who has been assaulted or battered by his or her spouse or~~
16 ~~former spouse, an individual with whom he or she has had a child in~~
17 ~~common, or a person with whom he or she resides or formerly~~
18 ~~resided.~~

19 ~~—— (12) The period of limitations is 5 years for an action to~~
20 ~~recover damages for injury to a person or property brought by a~~
21 ~~person who has been assaulted or battered by an individual with~~
22 ~~whom he or she has or has had a dating relationship.~~

23 **(12)** ~~(13)~~—The period of limitations is 3 years for a products
24 liability action. However, in the case of ~~FOR~~ a product that has
25 been in use for not less than 10 years, the plaintiff, in proving a
26 prima facie case, ~~shall be required to~~ **MUST** do so without **THE**
27 benefit of any presumption.

(13) ~~(14)~~—An action against a state licensed architect or professional engineer or licensed professional surveyor arising from professional services rendered is an action charging malpractice subject to the period of limitation contained in subsection ~~(6)~~. **(8)**.

(14) ~~(15)~~—The periods of limitation under this section are subject to any applicable period of repose established in section 5838a, 5838b, or 5839.

(15) ~~(16)~~—The amendments to this section made by 2011 PA 162 apply to causes of action that accrue on or after January 1, 2012.

(16) ~~(17)~~—As used in this section: ~~—"dating"~~

(A) "ADJUDICATION" MEANS AN ADJUDICATION OF 1 OR MORE OFFENSES UNDER CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1 TO 712A.32.

(B) "CRIMINAL SEXUAL CONDUCT" MEANS CONDUCT PROHIBITED UNDER SECTION 520B, 520C, 520D, 520E, OR 520G OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B, 750.520C, 750.520D, 750.520E, AND 750.520G.

(C) "DATING relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

SEC. 5851B. (1) NOTWITHSTANDING SECTIONS 5805 AND 5851, AN INDIVIDUAL WHO, WHILE A MINOR, IS THE VICTIM OF CRIMINAL SEXUAL CONDUCT MAY COMMENCE AN ACTION TO RECOVER DAMAGES SUSTAINED BECAUSE OF THE CRIMINAL SEXUAL CONDUCT AT ANY TIME BEFORE WHICHEVER OF THE

1 FOLLOWING IS LATER:

2 (A) THE INDIVIDUAL REACHES THE AGE OF 28 YEARS.

3 (B) THREE YEARS AFTER THE DATE THE INDIVIDUAL DISCOVERS, OR
4 THROUGH THE EXERCISE OF REASONABLE DILIGENCE SHOULD HAVE
5 DISCOVERED, BOTH THE INDIVIDUAL'S INJURY AND THE CAUSAL
6 RELATIONSHIP BETWEEN THE INJURY AND THE CRIMINAL SEXUAL CONDUCT.

7 (2) FOR PURPOSES OF SUBSECTION (1), IT IS NOT NECESSARY THAT A
8 CRIMINAL PROSECUTION OR OTHER PROCEEDING HAVE BEEN BROUGHT AS A
9 RESULT OF THE CONDUCT OR, IF A CRIMINAL PROSECUTION OR OTHER
10 PROCEEDING WAS BROUGHT, THAT THE PROSECUTION OR PROCEEDING RESULTED
11 IN A CONVICTION OR ADJUDICATION.

12 (3) REGARDLESS OF ANY PERIOD OF LIMITATION UNDER SUBSECTION
13 (1) OR SECTIONS 5805 OR 5851, AN INDIVIDUAL WHO, WHILE A MINOR, WAS
14 THE VICTIM OF CRIMINAL SEXUAL CONDUCT AFTER DECEMBER 31, 1996 BUT
15 BEFORE 2 YEARS BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
16 ADDED THIS SECTION MAY COMMENCE AN ACTION TO RECOVER DAMAGES
17 SUSTAINED BECAUSE OF THE CRIMINAL SEXUAL CONDUCT WITHIN 90 DAYS
18 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
19 SECTION IF THE PERSON ALLEGED TO HAVE COMMITTED THE CRIMINAL SEXUAL
20 CONDUCT WAS CONVICTED OF CRIMINAL SEXUAL CONDUCT AGAINST ANY PERSON
21 UNDER SECTION 520B OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
22 750.520B, AND THE DEFENDANT ADMITTED EITHER OF THE FOLLOWING:

23 (A) THAT THE DEFENDANT WAS IN A POSITION OF AUTHORITY OVER THE
24 VICTIM AS THE VICTIM'S PHYSICIAN AND USED THAT AUTHORITY TO COERCE
25 THE VICTIM TO SUBMIT.

26 (B) THAT THE DEFENDANT ENGAGED IN PURPORTED MEDICAL TREATMENT
27 OR EXAMINATION OF THE VICTIM IN A MANNER THAT IS, OR FOR PURPOSES

1 THAT ARE, MEDICALLY RECOGNIZED AS UNETHICAL OR UNACCEPTABLE.

2 (4) THIS SECTION DOES NOT LIMIT AN INDIVIDUAL'S RIGHT TO BRING
3 AN ACTION UNDER SECTION 5851.

4 (5) AS USED IN THIS SECTION:

5 (A) "ADJUDICATION" MEANS THAT TERM AS DEFINED IN SECTION 5805.

6 (B) "CRIMINAL SEXUAL CONDUCT" MEANS THAT TERM AS DEFINED IN
7 SECTION 5805.