

HOUSE BILL NO. 4306

February 23, 2021, Introduced by Reps. Whitsett, Cambensy, O'Neal, Neeley, Scott, Anthony, Cynthia Johnson, Thanedar, Young, Cavanagh, Aiyash, Kuppa, Haadsma, Peterson, Hope, Brixie, Calley, Tyrone Carter, Maddock, Steckloff and Yancey and referred to the Committee on Oversight.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 5805, 5851b, 6431, and 6452 (MCL 600.5805,
600.5851b, 600.6431, and 600.6452), section 5805 as amended by 2018
PA 183, section 5851b as added by 2018 PA 183, section 6431 as
amended by 2020 PA 42, and section 6452 as amended by 2020 PA 44.

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,

1 after the claim first accrued to the plaintiff or to someone
2 through whom the plaintiff claims, the action is commenced within
3 the periods of time prescribed by this section.

4 (2) Except as otherwise provided in this section, the period
5 of limitations is 3 years after the time of the death or injury for
6 all actions to recover damages for the death of a person or for
7 injury to a person or property.

8 (3) Subject to subsections (4) to ~~(6)~~, **(5) and section 5851b**,
9 the period of limitations is 2 years for an action charging
10 assault, battery, or false imprisonment.

11 (4) Subject to ~~subsection (6)~~, **section 5851b**, the period of
12 limitations is 5 years for an action charging assault or battery
13 brought by a person who has been assaulted or battered by his or
14 her spouse or former spouse, an individual with whom he or she has
15 had a child in common, or a person with whom he or she resides or
16 formerly resided.

17 (5) Subject to ~~subsection (6)~~, **section 5851b**, the period of
18 limitations is 5 years for an action charging assault and battery
19 brought by a person who has been assaulted or battered by an
20 individual with whom he or she has or has had a dating
21 relationship.

22 ~~(6) The period of limitations is 10 years for an action to~~
23 ~~recover damages sustained because of criminal sexual conduct. For~~
24 ~~purposes of this subsection, it is not necessary that a criminal~~
25 ~~prosecution or other proceeding have been brought as a result of~~
26 ~~the conduct or, if a criminal prosecution or other proceeding was~~
27 ~~brought, that the prosecution or proceeding resulted in a~~
28 ~~conviction or adjudication.~~

29 **(6)** ~~(7)~~ The period of limitations is 2 years for an action

1 charging malicious prosecution.

2 (7) ~~(8)~~ Except as otherwise provided in this chapter, the
3 period of limitations is 2 years for an action charging
4 malpractice.

5 (8) ~~(9)~~ The period of limitations is 2 years for an action
6 against a sheriff charging misconduct or neglect of office by the
7 sheriff or the sheriff's deputies.

8 (9) ~~(10)~~ The period of limitations is 2 years after the
9 expiration of the year for which a constable was elected for
10 actions based on the constable's negligence or misconduct as
11 constable.

12 (10) ~~(11)~~ The period of limitations is 1 year for an action
13 charging libel or slander.

14 (11) ~~(12)~~ The period of limitations is 3 years for a products
15 liability action. However, ~~in~~ for a product that has been in use
16 for not less than 10 years, the plaintiff, in proving a prima facie
17 case, must do so without the benefit of any presumption.

18 (12) ~~(13)~~ An action against a state licensed architect or
19 professional engineer or licensed professional surveyor arising
20 from professional services rendered is an action charging
21 malpractice subject to the period of limitation contained in
22 subsection ~~(8)~~. (7) .

23 (13) ~~(14)~~ The periods of limitation under this section are
24 subject to any applicable period of repose established in section
25 5838a, 5838b, or 5839.

26 (14) ~~(15)~~ The amendments to this section made by 2011 PA 162
27 apply to causes of action that accrue on or after January 1, 2012.

28 (15) ~~(16)~~ As used in this section, ÷

29 ~~(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~~ **"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~~ **section 5851, and subject to subsection (3)**, 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 following is later:

(a) Ten years after the time the claim accrues.

(b) ~~(a)~~ The individual reaches the age of 28 years.

(c) ~~(b)~~ **Six** years after the date the individual discovers, or through the exercise of reasonable diligence should have discovered, both the individual's injury and the causal relationship between the injury and the criminal sexual conduct.

(2) For purposes of ~~subsection (1),~~ **this section**, it is not necessary ~~that~~ **for** a criminal prosecution or other proceeding **to** have been brought as a result of the conduct or, if a criminal prosecution or other proceeding ~~was~~ **has been** brought, ~~that~~ **for** the prosecution or proceeding **to have** resulted in a conviction or adjudication.

(3) Regardless of any period of limitation under subsection

(1) ~~or sections 5805 or~~ **section 5851**, an individual who ~~, while a~~
~~minor,~~ was the victim of criminal sexual conduct ~~after December 31,~~
~~1996 but before 2 years before the effective date of the amendatory~~
~~act that added this section may~~ commence an action **against the**
individual alleged to have committed the criminal sexual conduct or
any other person to recover damages sustained because of the
criminal sexual conduct within ~~90 days~~ **1 year** after the effective
date of the **2021** amendatory act that ~~added~~ **amended** this section if
~~the person alleged to have committed the criminal sexual conduct~~
~~was convicted of criminal sexual conduct against any person under~~
~~section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b,~~
and the defendant admitted either of the following **applies:**

(a) ~~That the defendant~~ **The individual alleged to have**
committed the criminal sexual conduct was in a position of
authority over the victim as the victim's physician and used that
authority to coerce the victim to submit.

(b) ~~That the defendant~~ **The individual alleged to have**
committed the criminal sexual conduct engaged in purported medical
treatment or examination of the victim in a manner that is, or for
purposes that are, medically recognized as unethical or
unacceptable.

(4) This section does not limit an individual's right to bring
an action under section 5851.

(5) **Nothing in this, any previous, or any subsequent act**
limits the availability of causes of action permitted to a
plaintiff, including causes of action against persons other than
the individual alleged to have committed the criminal sexual
conduct.

(6) ~~(5)~~ As used in this section:

(a) "Adjudication" means ~~that term as defined in section 5805,~~ **an adjudication of 1 or more offenses under chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.**

(b) "Criminal sexual conduct" means ~~that term as defined in section 5805,~~ **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) "Person" means, as provided in section 3/ of 1846 RS 1, MCL 8.3/, **an individual, partnership, corporation, association, governmental entity, or other legal entity.**

Sec. 6431. (1) Except as otherwise provided in this section, a claim may not be maintained against this state unless the claimant, within 1 year after the claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against this state or any of its departments, commissions, boards, institutions, arms, or agencies.

(2) A claim or notice under subsection (1) must contain all of the following:

(a) A statement of the time when and the place where the claim arose.

(b) A detailed statement of the nature of the claim and of the items of damage alleged or claimed to have been sustained.

(c) A designation of any department, commission, board, institution, arm, or agency of the state involved in connection with the claim.

(d) A signature and verification by the claimant before an officer authorized to administer oaths.

(3) A claimant shall furnish copies of a claim or notice filed

1 under subsection (1) to the clerk at the time of filing for
2 transmittal to the attorney general and to each of the departments,
3 commissions, boards, institutions, arms, or agencies of this state
4 designated in the claim or notice.

5 (4) For a claim against this state for property damage or
6 personal injuries, the claimant shall file the claim or notice
7 under subsection (1) with the clerk of the court of claims within 6
8 months after the event that gives rise to the claim.

9 (5) This section does not apply to ~~a~~**either of the following:**

10 (a) A claim for compensation under the wrongful imprisonment
11 compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

12 (b) A claim to which section 5851b applies.

13 Sec. 6452. (1) Every claim against this state, cognizable by
14 the court of claims, is forever barred unless the claim is filed
15 with the clerk of the court or an action is commenced on the claim
16 in federal court as authorized in section 6440, within 3 years
17 after the claim first accrues.

18 (2) Except as modified by this section, chapter 58, relative
19 to the limitation of actions, also applies to the limitation under
20 this section.

21 (3) The attorney general has the same right as a creditor
22 under the statutes of this state to petition for the appointment of
23 a personal representative of the estate of a deceased person.

24 (4) The attorney general has the same right as a
25 superintendent of the poor under the statutes of this state to
26 petition for the appointment of a guardian of the estate of a minor
27 or any other individual under a disability.

28 (5) This section does not apply to ~~a~~**either of the following:**

29 (a) A claim for compensation under the wrongful imprisonment

1 compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

2 **(b) A claim to which section 5851b applies.**

3 Enacting section 1. This amendatory act is curative, must be
4 retroactively applied, applies to actions pending on the effective
5 date of this amendatory act, and is intended to express the
6 original intent of the legislature regarding the application of the
7 revised judicature act of 1961, 1961 PA 236, MCL 600.101 to
8 600.9947.