

1 SB11
2 196381-1
3 By Senator Coleman-Madison
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/15/2019

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8 SYNOPSIS: Under existing law, a civil action for an
9 injury to a person that does not arise from a
10 contract, which includes a sex offense, must be
11 brought within two years.

12 This bill would establish a statute of
13 limitations for a civil action for recovery of
14 damages for injury or illness arising from a sex
15 offense.

16 This bill would provide that if the victim
17 of a sex offense is a minor, the statute of
18 limitations is tolled until the victim reaches the
19 age of 19 years.

20 This bill would require a plaintiff to
21 perform additional procedures to corroborate his or
22 her complaint if the plaintiff files a complaint
23 alleging that a sex offense occurred more than 10
24 years prior to the date the action is commenced.

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26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 Relating to commencement of actions; to add Section
4 6-2-42 to the Code of Alabama 1975; to provide for the statute
5 of limitations for civil actions involving a sex offense; to
6 provide that the running of the statute of limitations is
7 tolled until the victim has reached the age of 19 years; and
8 to further provide for the tolling of the statute of
9 limitations.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 6-2-42 is added to the Code of
12 Alabama 1975, to read as follows:

13 §6-2-42.

14 (a) A civil action for recovery of damages for
15 injury or illness arising from a sex offense, as described by
16 Section 15-20A-5, Code of Alabama 1975, shall be brought
17 before whichever of the following periods last expires:

18 (1) Within 10 years of the commission of the sex
19 offense or the last of a series of sex offenses by the same
20 perpetrator.

21 (2) Within 10 years of the date the plaintiff knew,
22 or should have known, of the commission of the sex offense.

23 (3) Within 10 years after the plaintiff attains the
24 age of 19 years.

25 (4) Within 10 years of the criminal conviction of a
26 civil defendant for a sex offense.

1 (b) If a complaint is filed alleging that a sex
2 offense occurred more than 10 years prior to the date that the
3 action is commenced, the complaint shall be accompanied by
4 affidavits of merit as specified in subsection (c).

5 (c) Affidavits of merit shall be executed by the
6 attorney for the plaintiff and by a licensed mental health
7 practitioner selected by the plaintiff declaring,
8 respectively, as follows, setting forth the facts that support
9 the declaration:

10 (1) That the attorney has reviewed the facts of the
11 case, that the attorney has consulted at least one mental
12 health practitioner who is licensed to practice and practices
13 in this state and who the attorney reasonably believes is
14 knowledgeable of the relevant facts and issues involved in the
15 particular action, and that the attorney has concluded on the
16 basis of that review and consultation that there is reasonable
17 and meritorious cause for the filing of the action. The person
18 consulted may not be a party to the litigation.

19 (2) That the mental health practitioner consulted is
20 licensed to practice and practices in this state and is not a
21 party to the action, that the practitioner is not treating and
22 has not treated the plaintiff, and that the practitioner has
23 interviewed the plaintiff and is knowledgeable of the relevant
24 facts and issues involved in the particular action, and has
25 concluded, on the basis of his or her knowledge of the facts
26 and issues, that in his or her professional opinion there is a

1 reasonable basis to believe that the plaintiff has been the
2 victim of a sex offense.

3 (3) That the attorney was unable to obtain the
4 consultation required by subdivision (1) because a statute of
5 limitations would impair the action and that the affidavits
6 required by subdivisions (1) and (2) could not be obtained
7 before the impairment of the action. If an affidavit of merit
8 is executed pursuant to this subdivision, the affidavit
9 required by subdivisions (1) and (2) shall be filed within 60
10 days after the filing of the complaint.

11 (d) If an affidavit of merit is required pursuant to
12 subsection (b), the attorney for the plaintiff shall execute a
13 separate affidavit of merit for each defendant named in the
14 complaint.

15 (e) In an action subject to subsection (b), no
16 defendant may be named except by "Doe" designation in any
17 pleadings or papers filed in the action until there has been a
18 showing of corroborative fact as to the allegations against
19 the defendant. At any time after the action is filed, the
20 plaintiff may apply to the court for an order authorizing the
21 plaintiff to amend the complaint to substitute the name of the
22 defendant or defendants for the fictitious designation. The
23 application shall be accompanied by an affidavit of
24 corroborative fact executed by the attorney for the plaintiff.
25 The affidavit shall declare that the attorney has discovered
26 one or more facts corroborative of one or more of the charging
27 allegations against a defendant or defendants, and shall set

1 forth in clear and concise terms the nature and substance of
2 the corroborative fact. For purposes of this subsection, the
3 opinion of any mental health practitioner concerning the
4 plaintiff does not constitute a corroborative fact.

5 Section 2. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.