

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)~~, **(5), AND (15)** the
2 period of limitations is 2 years for an action charging assault,
3 battery, or false imprisonment.

4 (4) ~~(3)~~ **The SUBJECT TO SUBSECTION (15), 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 (15), 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) ~~(5)~~ The period of limitations is 2 years for an action
16 charging malicious prosecution.

17 (7) ~~(6)~~ Except as otherwise provided in this chapter, the
18 period of limitations is 2 years for an action charging
19 malpractice.

20 (8) ~~(7)~~ The period of limitations is 2 years for an action
21 against a sheriff charging misconduct or neglect of office by the
22 sheriff or the sheriff's deputies.

23 (9) ~~(8)~~ The period of limitations is 2 years after the
24 expiration of the year for which a constable was elected for
25 actions based on the constable's negligence or misconduct as
26 constable.

27 (10) ~~(9)~~ The period of limitations is 1 year for an action

1 charging libel or slander.

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

6 (11) ~~The~~ **SUBJECT TO SUBSECTION (15), THE** period of limitations
7 is 5 years for an action to recover damages for injury to a person
8 or property brought by a person who has been assaulted or battered
9 by his or her spouse or former spouse, an individual with whom he
10 or she has had a child in common, or a person with whom he or she
11 resides or formerly resided.

12 (12) ~~The~~ **SUBJECT TO SUBSECTION (15), THE** period of limitations
13 is 5 years for an action to recover damages for injury to a person
14 or property brought by a person who has been assaulted or battered
15 by an individual with whom he or she has or has had a dating
16 relationship.

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

22 (14) An action against a state licensed architect or
23 professional engineer or licensed professional surveyor arising
24 from professional services rendered is an action charging
25 malpractice subject to the period of limitation contained in
26 subsection ~~(6)~~ **(7)**.

27 **(15) THE PERIOD OF LIMITATIONS IS 10 YEARS FOR AN ACTION BASED**

1 ON CONDUCT THAT CONSTITUTES CRIMINAL SEXUAL CONDUCT. FOR PURPOSES
2 OF THIS SUBSECTION, IT IS NOT NECESSARY THAT A CRIMINAL PROSECUTION
3 OR OTHER PROCEEDING HAVE BEEN BROUGHT AS A RESULT OF THE CONDUCT
4 OR, IF A CRIMINAL PROSECUTION OR OTHER PROCEEDING WAS BROUGHT, THAT
5 THE PROSECUTION OR PROCEEDING RESULTED IN A CONVICTION.

6 (16) ~~(15)~~—The periods of limitation under this section are
7 subject to any applicable period of repose established in section
8 5838a, 5838b, or 5839.

9 (17) ~~(16)~~—The amendments to this section made by 2011 PA 162
10 apply to causes of action that accrue on or after January 1, 2012.

11 (18) ~~(17)~~—As used in this section: ~~—"dating"~~

12 (A) "CRIMINAL SEXUAL CONDUCT" MEANS CONDUCT PROHIBITED UNDER
13 SECTION 520B, 520C, 520D, 520E, OR 520G OF THE MICHIGAN PENAL CODE,
14 1931 PA 328, MCL 750.520B, 750.520C, 750.520D, 750.520E, AND
15 750.520G.

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

21 SEC. 5851B. (1) NOTWITHSTANDING SECTION 5851, AN INDIVIDUAL
22 WHO, WHILE A MINOR, IS THE VICTIM OF CRIMINAL SEXUAL CONDUCT MAY
23 COMMENCE AN ACTION TO RECOVER DAMAGES SUSTAINED BECAUSE OF THE
24 CRIMINAL SEXUAL CONDUCT AT ANY TIME BEFORE THE INDIVIDUAL REACHES
25 THE AGE OF 48 YEARS.

26 (2) THIS SECTION APPLIES TO A CLAIM BASED ON CRIMINAL SEXUAL
27 CONDUCT THAT ACCRUES AFTER DECEMBER 31, 1996. HOWEVER, THE

1 RETROACTIVE EFFECT OF THIS SUBSECTION IS LIMITED BY BOTH OF THE
2 FOLLOWING:

3 (A) IF THE CLAIM ACCRUED AFTER DECEMBER 31, 1996 AND BEFORE 3
4 YEARS BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
5 THIS SECTION, THE ACTION TO RECOVER DAMAGES FOR THE CLAIM MUST BE
6 FILED BEFORE 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
7 THAT ADDED THIS SECTION.

8 (B) THIS SUBSECTION DOES NOT APPLY IN EITHER OF THE FOLLOWING
9 CIRCUMSTANCES:

10 (i) IF ALL OF THE FOLLOWING APPLY:

11 (A) THE VICTIM CONSENTED TO THE CONDUCT.

12 (B) THE VICTIM WAS AT LEAST 13 YEARS OF AGE BUT LESS THAN 16
13 YEARS OF AGE AT THE TIME OF THE CONDUCT.

14 (C) THE INDIVIDUAL WHO ENGAGED IN THE CONDUCT IS NOT MORE THAN
15 4 YEARS OLDER THAN THE VICTIM.

16 (ii) IF ALL OF THE FOLLOWING APPLY:

17 (A) THE VICTIM CONSENTED TO THE CONDUCT.

18 (B) THE VICTIM WAS 16 OR 17 YEARS OF AGE AT THE TIME OF THE
19 CONDUCT.

20 (C) THE VICTIM WAS NOT UNDER THE CUSTODIAL AUTHORITY OF THE
21 INDIVIDUAL WHO ENGAGED IN THE CONDUCT AT THE TIME OF THE CONDUCT.

22 AS USED IN THIS SUB-SUBPARAGRAPH, "CUSTODIAL AUTHORITY" MEANS THAT
23 TERM AS DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT,
24 1994 PA 295, MCL 28.722.

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

27 (4) AS USED IN THIS SECTION, "CRIMINAL SEXUAL CONDUCT" MEANS

1 THAT TERM AS DEFINED IN SECTION 5805.