

# HOUSE BILL NO. 6237

September 16, 2020, Introduced by Reps. Whitsett, Maddock, Brenda Carter, Paquette, Garrett, Peterson, Wendzel, Rendon, Byrd, Yancey, Mueller, Allor and Berman and referred to the Committee on Judiciary.

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~~



1 ~~under chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL~~  
 2 ~~712A.1 to 712A.32.~~

3 ~~(b) "Criminal sexual conduct" means conduct prohibited under~~  
 4 ~~section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code,~~  
 5 ~~1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and~~  
 6 ~~750.520g.~~

7 ~~(c) "Dating "dating~~ relationship" means frequent, intimate  
 8 associations primarily characterized by the expectation of  
 9 affectional involvement. Dating relationship does not include a  
 10 casual relationship or an ordinary fraternization between 2  
 11 individuals in a business or social context.

12 Sec. 5851b. (1) Notwithstanding ~~sections 5805 and~~ **section**  
 13 **5851, and subject to subsection (3)**, an individual who ~~, while a~~  
 14 ~~minor,~~ is the victim of criminal sexual conduct may commence an  
 15 action to recover damages sustained because of the criminal sexual  
 16 conduct at any time before whichever of the following is later:

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

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

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

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

29 (3) Regardless of any period of limitation under subsection



1 (1) or ~~sections 5805 or~~ **section 5851**, an individual who ~~, while a~~  
 2 ~~minor,~~ was the victim of criminal sexual conduct ~~after December 31,~~  
 3 ~~1996 but before 2 years before the effective date of the amendatory~~  
 4 ~~act that added this section may commence an action~~ **against the**  
 5 **individual alleged to have committed the criminal sexual conduct or**  
 6 **any other person** to recover damages sustained because of the  
 7 criminal sexual conduct within ~~90 days~~ **1 year** after the effective  
 8 date of the **2020** amendatory act that ~~added~~ **amended** this section if  
 9 ~~the person alleged to have committed the criminal sexual conduct~~  
 10 ~~was convicted of criminal sexual conduct against any person under~~  
 11 ~~section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b,~~  
 12 ~~and the defendant admitted either of the following~~ **applies:**

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

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

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

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

29 (6) ~~(5)~~ As used in this section:



1 (a) "Adjudication" means ~~that term as defined in section~~  
2 ~~5805~~ **an adjudication of 1 or more offenses under chapter XIIIA of**  
3 **the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.**

4 (b) "Criminal sexual conduct" means ~~that term as defined in~~  
5 ~~section 5805~~ **conduct prohibited under section 520b, 520c, 520d,**  
6 **520e, or 520g of the Michigan penal code, 1931 PA 328, MCL**  
7 **750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.**

8 (c) "Person" means, as provided in section 3/ of 1846 RS 1, MCL  
9 **8.3/, an individual, partnership, corporation, association,**  
10 **governmental entity, or other legal entity.**

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

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

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

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

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

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

29 (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.

