

AMENDED IN ASSEMBLY MARCH 26, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1455

Introduced by Assembly Member Wicks

February 19, 2021

An act to ~~amend Section 340.16 of the Code of Civil Procedure, relating to civil actions:~~ *add Section 945.9 to the Government Code, relating to claims against public entities.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1455, as amended, Wicks. Sexual assault by law enforcement officers: *actions against public entities:* statute of ~~limitations on civil actions:~~ *limitations.*

Existing law sets the time for commencement of any civil action for recovery of damages suffered as a result of sexual assault, as defined, as the later within 10 years from the date of the last act attempted act, or assault with intent to commit an act of sexual assault by the defendant against the plaintiff or within 3 years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from the sexual assault.

~~For an action to recover damages arising out of a sexual assault by a law enforcement officer who has been convicted of any crime of sexual assault, when the crime of sexual assault occurred while the officer was on duty, in uniform, or armed, this bill would make the time for commencement of the action the later within 10 years from the last date the alleged perpetrator was employed as a law enforcement officer or within 10 years from the date of the conviction. The bill would revive any claim to recover damages arising out of a sexual assault by a law enforcement officer, as described above, that has not been litigated to~~

finality or compromised by a settlement agreement that would otherwise be barred because the applicable statute of limitations or other time limit has expired, if a cause of action based on that claim is commenced within the statute of limitations period specified by the bill.

The Government Claims Act sets forth the general procedure for the presentation of claims as a prerequisite to commencement of actions for money or damages against local public entities, as defined. Existing law requires a claim relating to a cause of action for death or for injury to person to be presented not later than 6 months after the accrual of the cause of action. Existing law provides that, unless a different statute of limitations is specifically applicable to the public entity, any action against a public entity upon a cause of action for which a claim is not required to be presented must be commenced within the time prescribed by the statute of limitations that would be applicable if the action were brought against a defendant other than a public entity.

This bill would exempt a claim arising out of an alleged sexual assault by a law enforcement officer if the alleged assault occurred while the officer was employed by a law enforcement agency from all state and local government claim presentation requirements. The bill would, notwithstanding any other law, revive and authorize to be commenced, a claim seeking to recover damages arising out of a sexual assault by a law enforcement officer, if the alleged sexual assault occurred on or after the plaintiff's 18th birthday while the officer was employed by a law enforcement agency, and the claim has not been litigated to finality or compromised by an executed written settlement agreement, and would otherwise be barred because the applicable statute of limitations, any state or local government claim presentation deadline, or any other applicable time limit, if it is filed within 10 years from the date of the last act, attempted act, or assault with the intent to commit an act, of sexual assault against the plaintiff or within 3 years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act, attempted act, or assault with the intent to commit an act, of sexual assault against the plaintiff. The bill would also, notwithstanding those provisions, require the claim to be commenced within the later of either of 10 years after the date of judgment in a criminal case if the action arises out of the same set of operative facts as the criminal case brought against the officer or 10 years after the law enforcement officer is no longer employed by the law enforcement agency that employed the officer when the alleged assault occurred.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 945.9 is added to the Government Code,
2 to read:

3 945.9. (a) A claim arising out of an alleged sexual assault by
4 a law enforcement officer if the alleged assault occurred while the
5 officer was employed by a law enforcement agency is exempted
6 from all state and local government claim presentation
7 requirements.

8 (b) Notwithstanding any other law, a claim seeking to recover
9 damages arising out of a sexual assault by a law enforcement
10 officer, if the alleged sexual assault occurred on or after the
11 plaintiff's 18th birthday while the officer was employed by a law
12 enforcement agency, that has not been litigated to finality or
13 compromised by an executed written settlement agreement and
14 that would otherwise be barred because the applicable statute of
15 limitations, any state or local government claim presentation
16 deadline, or any other applicable time limit has expired, is hereby
17 revived and may be commenced if filed within either of the
18 following periods of time:

19 (1) Ten years from the date of the last act, attempted act, or
20 assault with the intent to commit an act, of sexual assault against
21 the plaintiff.

22 (2) Three years from the date the plaintiff discovers or
23 reasonably should have discovered that an injury or illness resulted
24 from an act, attempted act, or assault with the intent to commit an
25 act, of sexual assault against the plaintiff.

26 (c) Notwithstanding subdivision (b), the time for commencement
27 of a claim seeking to recover damages arising out of an alleged
28 sexual assault by a law enforcement officer, if the alleged assault
29 occurred while the officer was employed by a law enforcement
30 agency, shall be the later of either of the following dates:

31 (A) Within 10 years after the date of judgment in a criminal
32 case if the action arises out of the same set of operative facts as
33 the criminal case brought against the officer.

1 (B) Within 10 years after the law enforcement officer is no
2 longer employed by the law enforcement agency that employed
3 the officer when the alleged assault occurred.

4 SECTION 1. Section 340.16 of the Code of Civil Procedure
5 is amended to read:

6 340.16. (a) In any civil action for recovery of damages suffered
7 as a result of sexual assault, where the assault occurred on or after
8 the plaintiff's 18th birthday, the time for commencement of the
9 action shall be the later of the following:

10 (1) Within 10 years from the date of the last act, attempted act,
11 or assault with the intent to commit an act, of sexual assault against
12 the plaintiff.

13 (2) Within three years from the date the plaintiff discovers or
14 reasonably should have discovered that an injury or illness resulted
15 from an act, attempted act, or assault with the intent to commit an
16 act, of sexual assault against the plaintiff.

17 (b) (1) As used in this section, "sexual assault" means any of
18 the crimes described in Section 243.4, 261, 262, 264.1, 286, 287,
19 or 289, or former Section 288a, of the Penal Code, assault with
20 the intent to commit any of those crimes, or an attempt to commit
21 any of those crimes.

22 (2) For the purpose of this section, it is not necessary that a
23 criminal prosecution or other proceeding have been brought as a
24 result of the sexual assault or, if a criminal prosecution or other
25 proceeding was brought, that the prosecution or proceeding resulted
26 in a conviction or adjudication. This subdivision does not limit the
27 availability of causes of action permitted under subdivision (a),
28 including causes of action against persons or entities other than
29 the alleged person who committed the crime.

30 (3) This section applies to any action described in subdivision
31 (a) that is commenced on or after January 1, 2019.

32 (c) (1) Notwithstanding any other law, any claim seeking to
33 recover more than two hundred fifty thousand dollars (\$250,000)
34 in damages arising out of a sexual assault or other inappropriate
35 contact, communication, or activity of a sexual nature by a
36 physician occurring at a student health center between January 1,
37 1988, and January 1, 2017, that would otherwise be barred before
38 January 1, 2020, solely because the applicable statute of limitations
39 has or had expired, is hereby revived, and a cause of action may
40 proceed if already pending in court on October 2, 2019, or, if not

1 filed by that date, may be commenced between January 1, 2020,
2 and December 31, 2020.

3 (2) This subdivision does not revive any of the following claims:

4 (A) A claim that has been litigated to finality in a court of
5 competent jurisdiction before January 1, 2020.

6 (B) A claim that has been compromised by a written settlement
7 agreement between the parties entered into before January 1, 2020.

8 (C) A claim brought against a public entity.

9 (3) An attorney representing a claimant seeking to recover under
10 this subdivision shall file a declaration with the court under penalty
11 of perjury stating that the attorney has reviewed the facts of the
12 case and consulted with a mental health practitioner, and that the
13 attorney has concluded on the basis of this review and consultation
14 that it is the attorney's good faith belief that the claim value is
15 more than two hundred fifty thousand dollars (\$250,000). The
16 declaration shall be filed upon filing the complaint, or for those
17 claims already pending, by December 1, 2019.

18 (d) (1) Notwithstanding any other law, any claim seeking to
19 recover damages arising out of a sexual assault or other
20 inappropriate contact, communication, or activity of a sexual nature
21 by a physician while employed by a medical clinic owned and
22 operated by the University of California, Los Angeles, or a
23 physician who held active privileges at a hospital owned and
24 operated by the University of California, Los Angeles, at the time
25 that the sexual assault or other inappropriate contact,
26 communication, or activity of a sexual nature occurred, between
27 January 1, 1983, and January 1, 2019, that would otherwise be
28 barred before January 1, 2021, solely because the applicable statute
29 of limitations has or had expired, is hereby revived, and a cause
30 of action may proceed if already pending in court on January 1,
31 2021, or, if not filed by that date, may be commenced between
32 January 1, 2021, and December 31, 2021.

33 (2) This subdivision does not revive either of the following
34 claims:

35 (A) A claim that has been litigated to finality in a court of
36 competent jurisdiction before January 1, 2021.

37 (B) A claim that has been compromised by a written settlement
38 agreement between the parties entered into before January 1, 2021.

39 (e) (1) Notwithstanding any other law, for a claim seeking to
40 recover damages arising out of a sexual assault by a law

1 enforcement officer who has been convicted of any crime of sexual
2 assault, when the crime of sexual assault occurred while the officer
3 was on duty, in uniform, or armed, the time for commencement
4 of the action shall be within 10 years from the last date the alleged
5 perpetrator was employed as a law enforcement officer or within
6 10 years from the date of the conviction, whichever is later.

7 (2) ~~This subdivision shall apply to any claim that has not been
8 litigated to finality or compromised by an executed written
9 settlement agreement and that would otherwise be barred because
10 the applicable statute of limitations, the deadline for the
11 presentation of the claim pursuant to Chapter 2 (commencing with
12 Section 910) of Part 3 of Division 3.6 of Title 1 of the Government
13 Code, or any other applicable time limit has expired. Any claim
14 described in this paragraph is hereby revived, and a cause of action
15 seeking damages based on that claim may be commenced
16 consistent with this section.~~