

## Assembly Bill No. 1510

### CHAPTER 462

An act to amend Section 340.16 of the Code of Civil Procedure, relating to sexual misconduct, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 2019. Filed with Secretary of State October 2, 2019.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1510, Reyes. Sexual assault and other sexual misconduct: statutes of limitations on civil actions.

Existing law sets the time for commencement of any civil action for recovery of damages suffered as a result of sexual assault, as defined, to the later of 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 an act, attempted act, or assault with intent to commit an act, of sexual assault by the defendant against the plaintiff. Existing law provides that this limitation applies to any action of that type that is commenced on or after January 1, 2019.

The bill would clarify that it is not necessary that a criminal prosecution or other proceeding have been brought as a result of the sexual assault or, if a criminal prosecution or other proceeding was brought, that the prosecution or proceeding resulted in a conviction or adjudication.

The bill would revive claims for damages of more than \$250,000 arising out of a sexual assault or other inappropriate contact, communication, or activity of a sexual nature by a physician occurring at a student health center between January 1, 1988, and January 1, 2017, that would otherwise be barred prior to January 1, 2020, solely because the applicable statute of limitations has or had expired, and would authorize a cause of action to proceed if already pending in court on the effective date of the bill or, if not filed by the effective date of the bill, to be commenced between January 1, 2020, and December 31, 2020. The bill would require an attorney representing a claimant seeking to recover under this provision to file a declaration with the court under penalty of perjury stating that the attorney has reviewed the facts of the case and consulted with a mental health practitioner, and that the attorney has concluded on the basis of this review and consultation that it is the attorney's good faith belief that the claim value is more than \$250,000. By expanding the crime of perjury, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

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

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

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

(1) 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.

(2) Within three 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.

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

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

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

(2) Notwithstanding any other law, any claim seeking to recover more than two hundred fifty thousand dollars (\$250,000) in damages arising out of a sexual assault or other inappropriate contact, communication, or activity of a sexual nature by a physician occurring at a student health center between January 1, 1988, and January 1, 2017, that would otherwise be barred prior to January 1, 2020, solely because the applicable statute of limitations has or had expired, is hereby revived and, a cause of action may proceed if already pending in court on the effective date of the amendments to this section made at the 2019–20 Regular Session or, if not filed by that date, may be commenced between January 1, 2020, and December 31, 2020.

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

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

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

(C) A claim brought against a public entity.

(4) An attorney representing a claimant seeking to recover under this subdivision shall file a declaration with the court under penalty of perjury stating that the attorney has reviewed the facts of the case and consulted with a mental health practitioner, and that the attorney has concluded on the basis of this review and consultation that it is the attorney's good faith belief that the claim value is more than two hundred fifty thousand dollars (\$250,000). The declaration shall be filed upon filing the complaint, or for those claims already pending, within 60 days of the effective date of the amendments to this section made at the 2019–20 Regular Session.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that victims are provided effective relief at the earliest possible time, it is necessary for this act to take effect immediately.