

1 HB311  
2 196381-2  
3 By Representative Coleman  
4 RFD: Judiciary  
5 First Read: 02-APR-19

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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.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
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, and more that 10 years after the  
4 plaintiff attains the age of 19, the allegations of the  
5 complaint must be proven by clear and convincing evidence.

6 (c) In an action subject to subsection (b), no  
7 defendant may be named except by "Doe" designation in any  
8 pleadings or papers filed in the action until there has been a  
9 showing of corroborative fact as to the allegations against  
10 the defendant. At any time after the action is filed, the  
11 plaintiff may apply to the court for an order authorizing the  
12 plaintiff to amend the complaint to substitute the name of the  
13 defendant or defendants for the fictitious designation. The  
14 application shall be accompanied by an affidavit of  
15 corroborative fact executed by the attorney for the plaintiff.  
16 The affidavit shall declare that the attorney has discovered  
17 one or more facts corroborative of one or more of the charging  
18 allegations against a defendant or defendants, and shall set  
19 forth in clear and concise terms the nature and substance of  
20 the corroborative fact. For purposes of this subsection, the  
21 opinion of any mental health practitioner concerning the  
22 plaintiff does not constitute a corroborative fact.

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