

HOUSE BILL No. 6101

June 5, 2018, Introduced by Reps. Neeley, Phelps, Sneller, Faris, Durhal, Wittenberg, Gay-Dagnogo, Peterson, Lasinski, Elder, Hoadley, Pagan, Moss, LaGrand, Rabhi, Ellison, Geiss, Love, Guerra, Yancey, Chirkun, Dianda and Garrett and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 5805, 6431, and 6452 (MCL 600.5805, 600.6431, and 600.6452), section 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

1 **INJURY TO A PERSON OR PROPERTY.**

2 (3) ~~(2)~~—Subject to subsections ~~(3)~~ and ~~(4)~~ **AND (5)**, the period
3 of limitations is 2 years for an action charging assault, battery,
4 or false imprisonment.

5 (4) ~~(3)~~—The period of limitations is 5 years for an action
6 charging assault or battery brought by a person who has been
7 assaulted or battered by his or her spouse or former spouse, an
8 individual with whom he or she has had a child in common, or a
9 person with whom he or she resides or formerly resided.

10 (5) ~~(4)~~—The period of limitations is 5 years for an action
11 charging assault and battery brought by a person who has been
12 assaulted or battered by an individual with whom he or she has or
13 has had a dating relationship.

14 (6) ~~(5)~~—The period of limitations is 2 years for an action
15 charging malicious prosecution.

16 (7) ~~(6)~~—Except as otherwise provided in this chapter, the
17 period of limitations is 2 years for an action charging
18 malpractice.

19 (8) ~~(7)~~—The period of limitations is 2 years for an action
20 against a sheriff charging misconduct or neglect of office by the
21 sheriff or the sheriff's deputies.

22 (9) ~~(8)~~—The period of limitations is 2 years after the
23 expiration of the year for which a constable was elected for
24 actions based on the constable's negligence or misconduct as
25 constable.

26 (10) ~~(9)~~—The period of limitations is 1 year for an action
27 charging libel or slander.

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

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

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

15 **(11)** ~~(13)~~ The period of limitations is 3 years for a products
16 liability action. However, in the case of **FOR** a product that has
17 been in use for not less than 10 years, the plaintiff, in proving a
18 prima facie case, shall be required to **MUST** do so without **THE**
19 benefit of any presumption.

20 **(12)** ~~(14)~~ An action against a state licensed architect or
21 professional engineer or licensed professional surveyor arising
22 from professional services rendered is an action charging
23 malpractice subject to the period of limitation contained in
24 subsection ~~(6)~~. **(7)**.

25 **(13) THE PERIOD OF LIMITATIONS FOR A CAUSE OF ACTION ARISING**
26 **FROM A WATER EMERGENCY IS 10 YEARS. THIS SUBSECTION APPLIES**
27 **RETROACTIVELY.**

1 (14) ~~(15)~~—The periods of limitation under this section are
2 subject to any applicable period of repose established in section
3 5838a, 5838b, or 5839.

4 (15) ~~(16)~~—The amendments to this section made by 2011 PA 162
5 apply to causes of action that accrue on or after January 1, 2012.

6 (16) ~~(17)~~—As used in this section: ~~—"dating"~~

7 (A) "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 (B) "WATER EMERGENCY" MEANS THE CIRCUMSTANCES THAT RESULTED IN
13 THE ISSUANCE OF A PROCLAMATION OR DECLARATION OF EMERGENCY BY THE
14 GOVERNOR UNDER THE EMERGENCY MANAGEMENT ACT, 1976 PA 390, MCL
15 30.401 TO 30.421, BECAUSE OF HARMFUL EFFECTS OF UNTREATED DRINKING
16 WATER ON A MUNICIPALITY'S WATER INFRASTRUCTURE, WHICH CAUSED THE
17 LEACHING OF LEAD INTO THE WATER, WHICH CAUSED DAMAGE TO THE WATER
18 SYSTEM AND POTENTIAL NEGATIVE HEALTH IMPACTS TO RESIDENTS OF THE
19 MUNICIPALITY.

20 SEC. 5851B. (1) NOTWITHSTANDING SECTION 5851, AN INDIVIDUAL
21 WHO, WHILE A MINOR, SUSTAINS DAMAGES FROM A WATER EMERGENCY MAY
22 COMMENCE AN ACTION TO RECOVER DAMAGES SUSTAINED AT ANY TIME BEFORE
23 WHICHEVER OF THE FOLLOWING IS LATER:

24 (A) THE INDIVIDUAL REACHES THE AGE OF 28 YEARS.

25 (B) THREE YEARS AFTER THE DATE THE INDIVIDUAL DISCOVERS, OR
26 THROUGH THE EXERCISE OF REASONABLE DILIGENCE SHOULD HAVE
27 DISCOVERED, BOTH THE INDIVIDUAL'S INJURY AND THE CAUSAL

1 RELATIONSHIP BETWEEN THE INJURY AND THE WATER EMERGENCY.

2 (2) THIS SECTION APPLIES RETROACTIVELY.

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

5 (4) AS USED IN THIS SECTION, "WATER EMERGENCY" MEANS THAT TERM
6 AS DEFINED IN SECTION 5805.

7 Sec. 6431. (1) ~~No~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
8 SECTION, A claim may NOT be maintained against ~~the~~ THIS state
9 unless the claimant, within 1 year after ~~such~~ THE claim has
10 accrued, files in the office of the clerk of the court of claims
11 either a written claim or a written notice of intention to file a
12 claim against the state or any of its departments, commissions,
13 boards, institutions, arms, or agencies. ~~stating~~

14 (2) A CLAIM OR NOTICE UNDER SUBSECTION (1) MUST CONTAIN ALL OF
15 THE FOLLOWING:

16 (A) A STATEMENT OF the time when and the place where ~~such~~ THE
17 claim arose. ~~and in detail~~

18 (B) A DETAILED STATEMENT OF the nature of the ~~same~~ CLAIM and
19 of the items of damage alleged or claimed to have been sustained. ~~and~~
20 which claim or notice shall be signed and verified by the claimant
21 before an officer authorized to administer oaths.

22 (C) ~~(2) Such claim or notice shall designate~~ A DESIGNATION OF
23 any department, commission, board, institution, arm, or agency of
24 the state involved in connection with ~~such~~ THE claim. ~~and a copy~~
25 of such

26 (D) A SIGNATURE AND VERIFICATION BY THE CLAIMANT BEFORE AN
27 OFFICER AUTHORIZED TO ADMINISTER OATHS.

1 **(3) A CLAIMANT SHALL FURNISH COPIES OF A** claim or notice shall
 2 ~~be furnished~~ **FILED UNDER SUBSECTION (1)** to the clerk at the time of
 3 ~~the filing of the original~~ for transmittal to the attorney general
 4 and to each of the departments, commissions, boards, institutions,
 5 arms, or agencies **OF THIS STATE** designated **IN THE CLAIM OR NOTICE.**

6 **(4) ~~(3)~~ In all actions FOR A CLAIM AGAINST THIS STATE** for
 7 property damage or personal injuries, **THE** claimant shall file **THE**
 8 **CLAIM OR NOTICE UNDER SUBSECTION (1)** with the clerk of the court of
 9 claims ~~a notice of intention to file a claim or the claim itself~~
 10 within 6 months ~~following the happening of~~ **AFTER** the event giving
 11 **THAT GIVES** rise to the ~~cause of action~~ **CLAIM.**

12 **(5) THIS SECTION DOES NOT APPLY TO A CLAIM FOR COMPENSATION**
 13 **FOR DAMAGES ARISING FROM A WATER EMERGENCY, AS THAT TERM IS DEFINED**
 14 **IN SECTION 5805. THIS SUBSECTION APPLIES RETROACTIVELY.**

15 Sec. 6452. (1) Every claim against ~~the~~ **THIS** state, cognizable
 16 by the court of claims, ~~shall be~~ **IS** forever barred unless the claim
 17 is filed with the clerk of the court or ~~suit instituted thereon~~ **AN**
 18 **ACTION COMMENCED ON THE CLAIM** in federal court as authorized in
 19 section 6440, within 3 years after the claim first accrues.

20 (2) Except as modified by this section, ~~the provisions of RJA~~
 21 chapter 58, relative to the limitation of actions, ~~shall also be~~
 22 ~~applicable~~ **APPLIES** to the limitation ~~prescribed in~~ **UNDER** this
 23 section.

24 (3) The attorney general ~~shall have~~ **HAS** the same right as a
 25 creditor under ~~the provisions of the statutes of the~~ **THIS** state of
 26 Michigan ~~in such case made and provided,~~ to petition for the
 27 ~~granting of letters of administration~~ **APPOINTMENT OF A PERSONAL**

1 **REPRESENTATIVE** of the estate of any ~~any~~ **A** deceased person.

2 (4) The attorney general ~~shall have~~ **HAS** the same right as a
3 superintendent of the poor under ~~the provisions of the statutes of~~
4 ~~the~~ **THIS** state ~~of Michigan in such case made and provided,~~ to
5 petition for the appointment of a guardian of the estate of a minor
6 or ~~any other person under disability.~~ **INCAPACITATED INDIVIDUAL.**

7 (5) **THIS SECTION DOES NOT APPLY TO A CLAIM FOR COMPENSATION**
8 **FOR DAMAGES ARISING FROM A WATER EMERGENCY, AS THAT TERM IS DEFINED**
9 **IN SECTION 5805. THIS SUBSECTION APPLIES RETROACTIVELY.**