

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2282
(Senators Dwyer, Estenson, Vedaa)
(Representatives Cory, O'Brien, Pyle)

AN ACT to create and enact a new section to chapter 28-01 of the North Dakota Century Code, relating to the limitation on claims for sexual assault; and to amend and reenact sections 28-01-18, 28-01-22.1, 28-01-25.1, and 32-12.1-10, and subsection 1 of section 32-12.2-04 of the North Dakota Century Code, relating to limitations on civil actions alleging sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse, and the notice requirement for claims against the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-01-18 of the North Dakota Century Code is amended and reenacted as follows:

28-01-18. Actions having two-year limitations.

~~The~~Except as provided in section 4 of this Act, the following actions must be commenced within two years after the claim for relief has accrued:

1. An action for libel, slander, assault, battery, or false imprisonment.
2. An action upon a statute for a forfeiture or penalty to the state.
3. An action for the recovery of damages resulting from malpractice; provided, however, that the limitation of an action against a physician or licensed hospital will not be extended beyond six years of the act or omission of alleged malpractice by a nondiscovery thereof unless discovery was prevented by the fraudulent conduct of the physician or licensed hospital. This limitation is subject to the provisions of section 28-01-25.
4. An action for injuries done to the person of another, when death ensues from such injuries, and the claim for relief must be deemed to have accrued at the time of the death of the party injured; provided, however, that when death ensues as the result of malpractice, the claim for relief is deemed to have accrued at the time of the discovery of the malpractice. However, the limitation will not be extended beyond six years of the act or omission of alleged malpractice by a nondiscovery thereof unless discovery was prevented by the fraudulent conduct of the physician or hospital.
5. An action for recovery of damages arising under chapter 5-01, and the claim for relief is deemed to have accrued at the time of the alleged offense. This limitation does not apply to any claim for relief existing at the time of the enactment of this subsection.

SECTION 2. AMENDMENT. Section 28-01-22.1 of the North Dakota Century Code is amended and reenacted as follows:

28-01-22.1. Actions against state - Limitation.

1. When not otherwise specifically provided by law, an action against the state or its employees and officials acting within the scope of their employment or office must be commenced within three years after the claim for relief has accrued.

2. For purposes of this section, the claim for relief is deemed to have accrued at the time it is discovered or might have been discovered in the exercise of reasonable diligence. This may not be construed as a waiver of immunity.
3. Notwithstanding subsections 1 and 2, an action for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced:
 - a. Within nine years after the date the act occurred; or
 - b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.
4. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.

SECTION 3. AMENDMENT. Section 28-01-25.1 of the North Dakota Century Code is amended and reenacted as follows:

28-01-25.1. Limitation on actions alleging childhood sexual abuse.

1. Notwithstanding section 28-01-25, a claim for relief resulting from childhood sexual abuse must be commenced within ~~ten~~twenty-one years after the plaintiff ~~knew or reasonably should have known that a potential claim exists~~ resulting from alleged childhood sexual abuse accrued.
2. If the plaintiff was under fifteen years of age when the act resulting in a potential claim for childhood sexual abuse occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.
3. For purposes of this section, "childhood sexual abuse" means any act committed by the defendant against the plaintiff which occurred when the plaintiff was under eighteen years of age and which would have been a violation of chapter 12.1-20 or 12.1-27.2.
4. In a claim for relief under this section, the plaintiff is not required to establish which act in a continuous series of sexual abuse acts by the defendant caused the injury.

SECTION 4. A new section to chapter 28-01 of the North Dakota Century Code is created and enacted as follows:

Limitation on claims for sexual assault.

A claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced within nine years after the date of the act.

SECTION 5. AMENDMENT. Section 32-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

32-12.1-10. Statute of limitations.

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1. Except as otherwise provided in this section, an action brought under this chapter must be commenced within three years after the claim for relief has accrued.

2. An action under this chapter for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be commenced:
 - a. Within nine years after the date the act occurred; or
 - b. Within twenty-one years after the date the act occurred, if the act occurred when the plaintiff was under eighteen years of age.
3. If the plaintiff was under fifteen years of age when a claim for relief resulting from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable twenty-one year period of limitation does not begin to run until the plaintiff has reached fifteen years of age.

SECTION 6. AMENDMENT. Subsection 1 of section 32-12.2-04 of the North Dakota Century Code is amended and reenacted as follows:

1.
 - a. A person bringing a claim against the state or a state employee for an injury shall present to the director of the office of management and budget within one hundred eighty days after the alleged injury is discovered or reasonably should have been discovered a written notice stating the time, place, and circumstances of the injury, the names of any state employees known to be involved, and the amount of compensation or other relief demanded.
 - b. The time for giving the notice does not include the time during which a person injured is incapacitated by the injury from giving the notice. If the claim is one for death, the notice may be presented by the personal representative, surviving spouse, or next of kin within one year after the alleged injury resulting in the death.
 - c. The time for giving the notice is waived for a claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2282.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 56 Nays 33 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State