

REFERENCE TITLE: **civil actions; time limits; crimes**

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SB 1292

Introduced by
Senators Aguirre, Burton Cahill: Aboud, Lopez, McCune Davis

AN ACT

AMENDING TITLE 12, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-512; RELATING TO LIMITATIONS OF ACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 5, article 1, Arizona Revised Statutes,
3 is amended by adding section 12-512, to read:

4 12-512. Civil action arising from sexual offenses: application:
5 certificate of merit

6 A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN ACTION FOR RECOVERY OF
7 DAMAGES BASED ON PHYSICAL, PSYCHOLOGICAL OR OTHER INJURY OR CONDITION
8 SUFFERED AS A RESULT OF THE DIRECT CONDUCT OF ANOTHER COMMITTED AGAINST A
9 MINOR, WHICH WOULD CONSTITUTE A VIOLATION OF TITLE 13, CHAPTER 14 OR 35.1,
10 INCEST PURSUANT TO SECTION 13-3608 OR AN OFFENSE THAT WAS IN EFFECT BEFORE
11 THE EFFECTIVE DATE OF THIS SECTION AND THAT, IF COMMITTED ON OR AFTER THE
12 EFFECTIVE DATE OF THIS SECTION, HAS THE SAME ELEMENTS OF AN OFFENSE LISTED IN
13 THIS SECTION, MAY BE COMMENCED AT ANY TIME.

14 B. ANY CAUSE OF ACTION THAT IS BARRED AS OF THE EFFECTIVE DATE OF THIS
15 SECTION BECAUSE THE APPLICABLE PERIOD OF LIMITATION HAS EXPIRED IS REVIVED
16 AND AN ACTION MAY BE COMMENCED WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF
17 THIS SECTION.

18 C. ANY CAUSE OF ACTION BROUGHT PURSUANT TO SUBSECTION B OF THIS
19 SECTION MAY ONLY BE COMMENCED FOR CONDUCT THAT WAS COMMITTED AGAINST THE
20 MINOR THIRTY-FIVE YEARS OR LESS BEFORE THE EFFECTIVE DATE OF THIS SECTION OR
21 COMMENCED WITHIN THIRTY-FIVE YEARS AFTER THE MINOR REACHING EIGHTEEN YEARS OF
22 AGE.

23 D. IN ANY CIVIL ACTION FILED PURSUANT TO SUBSECTION B OF THIS SECTION,
24 A CERTIFICATE OF MERIT SHALL BE FILED BY THE ATTORNEY FOR THE PLAINTIFF. THE
25 CERTIFICATE OF MERIT SHALL CONTAIN A NOTARIZED STATEMENT BY A QUALIFIED
26 PSYCHOLOGIST OR BEHAVIORAL HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO
27 TITLE 32, CHAPTER 19.1 OR 33 AND WHO IS KNOWLEDGEABLE IN THE RELEVANT FACTS
28 AND ISSUES INVOLVED IN THE PARTICULAR ACTION AND SHALL STATE IN REASONABLE
29 DETAIL THE FACTS AND OPINIONS THAT THE PSYCHOLOGIST OR BEHAVIORAL HEALTH
30 PROFESSIONAL HAS RELIED ON FOR CONCLUDING THAT THERE IS A REASONABLE BASIS TO
31 BELIEVE THAT THE PLAINTIFF HAS BEEN SUBJECT TO ONE OR MORE ACTS THAT WOULD
32 CONSTITUTE AN OFFENSE LISTED IN SUBSECTION A OF THIS SECTION. THE
33 PSYCHOLOGIST OR BEHAVIORAL HEALTH PROFESSIONAL PROVIDING THE STATEMENT MAY
34 NOT BE A PARTY TO THE LITIGATION. ONE CERTIFICATE OF MERIT SHALL BE FILED
35 FOR EACH ACTION EVEN IF MORE THAN ONE DEFENDANT IS NAMED IN THE COMPLAINT OR
36 IS SUBSEQUENTLY NAMED.