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**AB-3092 Sexual assault and other sexual misconduct: statutes of limitations on civil actions.** (2019-2020)

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**Assembly Bill No. 3092**

**CHAPTER 246**

An act to amend Section 340.16 of the Code of Civil Procedure, relating to civil actions.

[ Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 3092, Wicks. 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. However, existing law revives 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 October 2, 2019, or, if not filed by that date, to be commenced between January 1, 2020, and December 31, 2020. This law is not applicable to a public entity.

This bill would revive claims for damages arising out of a sexual assault or other inappropriate contact, communication, or activity of a sexual nature by a physician while employed by a medical clinic owned and operated by the University of California, Los Angeles, or a physician who held active privileges at a hospital owned and operated by the University of California, Los Angeles, at the time that the sexual assault or other inappropriate contact, communication, or activity of a sexual nature occurred, between January 1, 1983, and January 1, 2019, that would otherwise be barred before January 1, 2021, 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 January 1, 2021, or, if not filed by that date, to be commenced between January 1, 2021, and December 31, 2021.

This bill would make legislative findings and declarations as to the necessity of a special statute for the University of California.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**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.

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

(c) (1) 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 before 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 October 2, 2019, or, if not filed by that date, may be commenced between January 1, 2020, and December 31, 2020.

(2) 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.

(3) 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, by December 1, 2019.

(d) (1) Notwithstanding any other law, any claim seeking to recover damages arising out of a sexual assault or other inappropriate contact, communication, or activity of a sexual nature by a physician while employed by a medical clinic owned and operated by the University of California, Los Angeles, or a physician who held active privileges at a hospital owned and operated by the University of California, Los Angeles, at the time that the sexual assault or other inappropriate contact, communication, or activity of a sexual nature occurred, between January 1, 1983, and January 1, 2019, that would otherwise be barred before January 1, 2021, 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 January 1, 2021, or, if not filed by that date, may be commenced between January 1, 2021, and December 31, 2021.

(2) This subdivision does not revive either of the following claims:

(A) A claim that has been litigated to finality in a court of competent jurisdiction before January 1, 2021.

(B) A claim that has been compromised by a written settlement agreement between the parties entered into before January 1, 2021.

**SEC. 2.** The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because the Legislature has determined that a statute of limitations should not bar claims of serious misconduct alleged at the University of California.