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AB-1455 Sexual assault by law enforcement officers: actions against public entities: statute of limitations. (2021-2022)

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Assembly Bill No. 1455

CHAPTER 595

An act to add Section 945.9 to the Government Code, relating to claims against public entities.

[Approved by Governor October 06, 2021. Filed with Secretary of State October 06, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1455, Wicks. Sexual assault by law enforcement officers: actions against public entities: statute of limitations.

Existing law sets the time for commencement of any civil action for recovery of damages suffered as a result of sexual assault, as defined, as the later 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 the sexual assault.

The Government Claims Act sets forth the general procedure for the presentation of claims as a prerequisite to commencement of actions for money or damages against local public entities, as defined. Existing law requires a claim relating to a cause of action for death or for injury to person to be presented not later than 6 months after the accrual of the cause of action. Existing law provides that, unless a different statute of limitations is specifically applicable to the public entity, any action against a public entity upon a cause of action for which a claim is not required to be presented must be commenced within the time prescribed by the statute of limitations that would be applicable if the action were brought against a defendant other than a public entity.

This bill would exempt a claim arising out of an alleged sexual assault, as defined, by a law enforcement officer if the alleged assault occurred on or after the plaintiff's 18th birthday and while the officer was employed by a law enforcement agency from all state and local government claim presentation requirements. The bill would, notwithstanding any other law, require the claim to be commenced within the later of either of 10 years after the date of judgment against a law enforcement officer in a criminal case for a crime of sexual assault or a judgment against a law enforcement officer for a different crime if a crime of sexual assault was alleged and the crime for which there was a judgment against a law enforcement officer arose out of the same set of operative facts as the allegation of sexual assault in the present claim or 10 years after the law enforcement officer is no longer employed by the law enforcement agency that employed the officer when the alleged assault occurred. The bill would also, notwithstanding those provisions, revive and authorize to be commenced, a claim seeking to recover damages arising out of a sexual assault by a law enforcement officer, if the alleged sexual assault occurred on or after the plaintiff's 18th birthday while the officer was employed by a law enforcement agency, and the claim has not been litigated to finality or compromised by an executed written settlement agreement, and would otherwise be barred because of the applicable statute of limitations, any state or local government claim presentation deadline, or any other applicable time limit, if it is filed 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 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 the intent to commit an act, of sexual assault against the plaintiff.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 945.9 is added to the Government Code, to read:

945.9. (a) A claim arising out of an alleged sexual assault by a law enforcement officer if the alleged assault occurred while the officer was employed by a law enforcement agency is exempted from all state and local government claim presentation requirements.

(b) Notwithstanding any other law, the time for commencement of a claim seeking to recover damages arising out of an alleged sexual assault by a law enforcement officer, if the alleged sexual assault occurred on or after the plaintiff's 18th birthday and while the officer was employed by a law enforcement agency, shall be the later of either of the following dates:

(1) Within 10 years after the date of judgment against a law enforcement officer in a criminal case for a crime of sexual assault or a judgment against a law enforcement officer for a different crime if a crime of sexual assault was alleged and the crime for which there was a judgment against a law enforcement officer arose out of the same set of operative facts as the allegation of sexual assault in the present claim.

(2) Within 10 years after the law enforcement officer is no longer employed by the law enforcement agency that employed the officer when the alleged sexual assault occurred.

(c) Notwithstanding subdivision (b), a claim seeking to recover damages arising out of an alleged sexual assault by a law enforcement officer, if the alleged sexual assault occurred on or after the plaintiff's 18th birthday and while the officer was employed by a law enforcement agency, that has not been litigated to finality or compromised by an executed written settlement agreement and that would otherwise be barred because the applicable statute of limitations, any state or local government claim presentation deadline, or any other applicable time limit has expired, is hereby revived and may be commenced if filed within either of the following periods of time:

(1) Ten 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) 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.

(d) 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.