

ASSEMBLY BILL

No. 2157

Introduced by Assembly Member Morrell

February 20, 2014

An act to amend Section 340.3 of the Code of Civil Procedure, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 2157, as introduced, Morrell. Actions for damages: felony offenses.

Existing law provides for the time of commencing civil actions other than for the recovery of real property, as specified. Under existing law, unless a longer period is prescribed for a specific action, an action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted is required to be brought within one year after the judgment has been pronounced. Existing law also authorizes an action for damages to be brought within 10 years of the date on which the defendant is discharged from parole if the conviction was for any of certain serious felonies, as specified.

This bill would include a human trafficking offense as a serious felony for which an action for damages against a defendant may be brought within 10 years from the date on which the defendant is discharged from parole, and would make other nonsubstantive changes and update a cross-reference in these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 340.3 of the Code of Civil Procedure is
2 amended to read:

3 340.3. (a) Unless a longer period is prescribed for a specific
4 action, in any action for damages against a defendant based upon
5 the defendant's commission of a felony offense for which the
6 defendant has been convicted, the time for commencement of the
7 action shall be within one year after judgment is pronounced.

8 (b) (1) Notwithstanding subdivision (a), an action for damages
9 against a defendant based upon the defendant's commission of a
10 felony offense for which the defendant has been convicted may
11 be commenced within 10 years of the date on which the defendant
12 is discharged from parole if the conviction was for any offense
13 specified in paragraph (1), except voluntary manslaughter, (2),
14 (3), (4), (5), (6), (7), (9), (16), (17), (20), (22), (25), (34), or (35)
15 of subdivision (c) of Section 1192.7 of the Penal Code *or a human*
16 *trafficking offense specified in Section 1192.7 of the Penal Code.*

17 (2) ~~No~~ A civil action ~~may~~ *shall not* be commenced pursuant to
18 paragraph (1) if any of the following ~~applies~~: *apply*:

19 (A) The defendant has received either a certificate of
20 rehabilitation as provided in Chapter 3.5 (commencing with Section
21 4852.01) of Title 6 of Part 3 of the Penal Code or a pardon as
22 provided in Chapter 1 (commencing with Section 4800) or Chapter
23 3 (commencing with Section 4850) of Title 6 of Part 3 of the Penal
24 Code.

25 (B) Following a conviction for murder or attempted murder,
26 the defendant has been paroled based in whole or in part upon
27 evidence presented to the Board of Prison Terms that the defendant
28 committed the crime because he or she was the victim of intimate
29 partner battering.

30 (C) The defendant was convicted of murder or attempted murder
31 in the second degree in a trial at which substantial evidence was
32 presented that the person committed the crime because he or she
33 was a victim of intimate partner battering.

34 (c) If the sentence or judgment is stayed, the time for the
35 commencement of the action shall be tolled until the stay is lifted.
36 For purposes of this section, a judgment is not stayed if the
37 judgment is appealed or the defendant is placed on probation.

1 (d) (1) Subdivision (b) ~~shall apply~~ *applies* to any action
2 commenced before, on, or after the effective date of this section,
3 including any action otherwise barred by a limitation of time in
4 effect ~~prior to~~ *before* the effective date of this section, thereby
5 reviving those causes of action that had lapsed or expired under
6 the law in effect ~~prior to~~ *before* the effective date of this section.

7 (2) Paragraph (1) does not apply to either of the following:

8 (A) Any claim that has been litigated to finality on the merits
9 in any court of competent jurisdiction ~~prior to~~ *before* January 1,
10 2003. For purposes of this section, termination of a prior action
11 on the basis of the statute of limitations ~~does~~ *shall* not constitute
12 a claim that has been litigated to finality on the merits.

13 (B) Any written, compromised settlement agreement that has
14 been entered into between a plaintiff and a defendant if the plaintiff
15 was represented by an attorney who was admitted to practice law
16 in this state at the time of the settlement, and the plaintiff signed
17 the agreement.

18 (e) Any restitution paid by the defendant to the victim shall be
19 credited against any judgment, award, or settlement obtained
20 pursuant to this section. Any judgment, award, or settlement
21 obtained pursuant to an action under this section shall be subject
22 to the provisions of Section ~~13966.01~~ *13963* of the Government
23 Code.