

ASSEMBLY BILL

No. 538

Introduced by Assembly Member Campos

February 23, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 538, as introduced, Campos. 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 increase from 10 to 25 years the statute of limitations for an action for damages if the conviction was for any of those enumerated felonies.

This bill would also correct an erroneous cross-reference.

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~~ 25 years of the date on which the
12 defendant is discharged from parole if the conviction was for any
13 offense specified in paragraph (1), except voluntary manslaughter,
14 (2), (3), (4), (5), (6), (7), (9), (16), (17), (20), (22), (25), (34), or
15 (35) of subdivision (c) of Section 1192.7 of the Penal Code.

16 (2) No civil action may be commenced pursuant to paragraph
17 (1) if any of the following applies:

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

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

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

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

37 (d) (1) Subdivision (b) shall apply to any action commenced
38 before, on, or after the effective date of this section, including any

1 action otherwise barred by a limitation of time in effect prior to
2 the effective date of this section, thereby reviving those causes of
3 action that had lapsed or expired under the law in effect prior to
4 the effective date of this section.

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

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

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

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