

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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, *and to add Section 5065.5 to the Penal Code*, relating to ~~civil actions: criminal offenders~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 538, as amended, Campos. Actions for damages: ~~felony offenses: offenses: victim notification~~.

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. *Under existing law, a civil action cannot be commenced pursuant to these provisions if a defendant has received a certificate of rehabilitation or a pardon, among other circumstances.*

This bill would increase from 10 to ~~25~~ 15 years the statute of limitations for an action for damages if the conviction was for any of ~~those~~ enumerated felonies. *This bill would also provide that a civil action cannot be commenced pursuant to these provisions if the defendant was unlawfully imprisoned or restrained but has been*

released from prison after successfully prosecuting a writ of habeas corpus.

Under existing law, a crime victim or family member of a crime victim may request certain information from the Department of Corrections and Rehabilitation regarding the status of a criminal offender.

This bill would require a person or entity that enters into a contract with a criminal offender for the sale of the story of a crime for which the offender was convicted to notify the Office of Victim and Survivor Rights and Services within the California Department of Corrections and Rehabilitation, and for the Office of Victim and Survivor Rights and Services to, in turn, notify the victim or immediate family member of the victim if he or she has requested notification.

This bill would also correct an erroneous cross-reference.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. 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 ~~25~~ 15 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

1 3 (commencing with Section 4850) of Title 6 of Part 3 of the Penal
2 Code.

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

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

12 (D) *The defendant was unlawfully imprisoned or restrained but*
13 *has been released from prison after successfully prosecuting a*
14 *writ of habeas corpus pursuant to Chapter 1 (commencing with*
15 *Section 1473) of Title 12 of Part 2 of the Penal Code.*

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

20 (d) (1) Subdivision (b) shall apply to any action commenced
21 before, on, or after the effective date of this section, including any
22 action otherwise barred by a limitation of time in effect prior to
23 the effective date of this section, thereby reviving those causes of
24 action that had lapsed or expired under the law in effect prior to
25 the effective date of this section.

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

27 (A) Any claim that has been litigated to finality on the merits
28 in any court of competent jurisdiction prior to January 1, 2003.
29 For purposes of this section, termination of a prior action on the
30 basis of the statute of limitations does not constitute a claim that
31 has been litigated to finality on the merits.

32 (B) Any written, compromised settlement agreement that has
33 been entered into between a plaintiff and a defendant if the plaintiff
34 was represented by an attorney who was admitted to practice law
35 in this state at the time of the settlement, and the plaintiff signed
36 the agreement.

37 (e) Any restitution paid by the defendant to the victim shall be
38 credited against any judgment, award, or settlement obtained
39 pursuant to this section. Any judgment, award, or settlement

1 obtained pursuant to an action under this section shall be subject
2 to the provisions of Section 13963 of the Government Code.

3 *SEC. 2. Section 5065.5 is added to the Penal Code, to read:*

4 *5065.5. (a) For purposes of this section, "immediate family*
5 *member" means a spouse, child, parent, sibling, grandchild, or*
6 *grandparent.*

7 *(b) A person or entity that enters into a contract with a criminal*
8 *offender for the sale of the story of a crime for which the offender*
9 *was convicted shall notify the Office of Victim and Survivor Rights*
10 *and Services within the California Department of Corrections and*
11 *Rehabilitation that the parties have entered into a contract for*
12 *sale of the offender's story if both of the following conditions are*
13 *met:*

14 *(1) The conviction was for any offense specified in paragraph*
15 *(1), except voluntary manslaughter, (2), (3), (4), (5), (6), (7), (9),*
16 *(16), (17), (20), (22), (25), (34), or (35) of subdivision (c) of Section*
17 *1192.7.*

18 *(2) Paragraph (2) of subdivision (b) of Section 340.3 of the*
19 *Code of Civil Procedure does not preclude commencement of a*
20 *civil action against the criminal offender.*

21 *(c) Within 90 days of being notified, the Office of Victim and*
22 *Survivor Rights and Services shall notify any victim or member of*
23 *the victim's immediate family who has requested notification of*
24 *the existence of a contract described by this section.*