

AMENDED IN SENATE JULY 16, 2015

AMENDED IN ASSEMBLY MAY 13, 2015

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 criminal offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 538, as amended, Campos. Actions for damages: felony 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 15 years the statute of limitations for an action for damages if the conviction was for any 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~~, *or a member of the victim's immediate family, as specified*, if he or she has requested notification.

This bill would also correct an erroneous cross-reference.

Vote: majority. Appropriation: no. Fiscal committee: 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 ~~15~~ 10 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

1 4852.01) of Title 6 of Part 3 of the Penal Code or a pardon as
2 provided in Chapter 1 (commencing with Section 4800) or Chapter
3 3 (commencing with Section 4850) of Title 6 of Part 3 of the Penal
4 Code.

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

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

14 (D) The defendant was unlawfully imprisoned or restrained but
15 has been released from prison after successfully prosecuting a writ
16 of habeas corpus pursuant to Chapter 1 (commencing with Section
17 1473) of Title 12 of Part 2 of the Penal Code.

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

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

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

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

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

39 (e) Any restitution paid by the defendant to the victim shall be
40 credited against any judgment, award, or settlement obtained

1 pursuant to this section. Any judgment, award, or settlement
2 obtained pursuant to an action under this section shall be subject
3 to the provisions of Section 13963 of the Government Code.

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

5 5065.5. (a) For purposes of this section, ~~“immediate family~~
6 ~~member”~~ *“member of the victim’s immediate family”* means a
7 spouse, child, parent, sibling, grandchild, or grandparent.

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

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

18 (2) Subdivision (b) of Section 340.3 of the Code of Civil
19 Procedure does not preclude commencement of a civil action
20 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~~
23 ~~of the victim’s immediate family~~ *the victim, or if the victim cannot*
24 *be reasonably notified, a member of the victim’s immediate family,*
25 who has requested notification of the existence of a contract
26 described by this section.