

Assembly Bill No. 538

CHAPTER 465

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.

[Approved by Governor October 3, 2015. Filed with
Secretary of State October 3, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 538, 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. 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 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 California Department of Corrections and Rehabilitation, which must then notify 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.

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

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

340.3. (a) Unless a longer period is prescribed for a specific action, in any action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted,

the time for commencement of the action shall be within one year after judgment is pronounced.

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

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

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

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

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

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

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

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

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

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

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

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

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

5065.5. (a) 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 shall notify the California Department of Corrections and Rehabilitation that the parties have entered into a contract for sale of the offender's story if both of the following conditions are met:

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

(2) Subdivision (b) of Section 340.3 of the Code of Civil Procedure does not preclude commencement of a civil action against the criminal offender.

(b) Within 90 days of being notified, the California Department of Corrections and Rehabilitation shall notify the victim, or if the victim cannot be reasonably notified, a member of the victim's immediate family, who has requested notification of the existence of a contract described by this section.

(c) For purposes of this section, "member of victim's immediate family" means a spouse, child, parent, sibling, grandchild, or grandparent.