



Bill Number: H.B. 2699

Aguirre Floor Amendment

Reference to: House engrossed bill

Amendment drafted by: Michael Mandell

FLOOR AMENDMENT EXPLANATION

The Aguirre Amendment:

Removes the 2 year statute of limitations for a civil cause of action by a person who suffered injuries resulting from a sexual offense, including child prostitution, committed with the person was a minor.

Requires that a currently barred cause of action is revived for one year after the effective date of this legislation.

Limits a currently barred civil action for conduct that was committed against a minor to 35 years before the effective date of this legislation or within 35 years after the minor reaches 18 years of age.

Requires a certificate of merit to be filed by the plaintiff's attorney containing a notarized statement by a licensed psychologist or behavioral health professional that details the professional's facts and opinions relied upon for concluding there is a reasonable basis the plaintiff has been subjected to sexual offense acts.

Specifies that third party liability in a civil action arising from sexual offenses committed against a minor applies only in instances of direct negligent or intentional conduct of the defendant and limits vicarious liability.

Amendment explanation prepared by: Michael Mandell

4/1/2010

AGUIRRE FLOOR AMENDMENT

SENATE AMENDMENTS TO H.B. 2699

(Reference to House engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Title 12, chapter 5, article 1, Arizona Revised Statutes,
3 is amended by adding section 12-512, to read:

4 12-512. Civil action arising from sexual offenses;
5 application; certificate of merit

6 A. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN ACTION FOR RECOVERY OF
7 DAMAGES BASED ON PHYSICAL, PSYCHOLOGICAL OR OTHER INJURY OR CONDITION
8 SUFFERED AS A RESULT OF THE DIRECT CONDUCT OF ANOTHER COMMITTED AGAINST A
9 MINOR, WHICH WOULD CONSTITUTE A VIOLATION OF TITLE 13, CHAPTER 14 OR 35.1,
10 CHILD PROSTITUTION PURSUANT TO SECTION 13-3212, INCEST PURSUANT TO SECTION
11 13-3608 OR AN OFFENSE THAT WAS IN EFFECT BEFORE THE EFFECTIVE DATE OF THIS
12 SECTION AND THAT, IF COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS
13 SECTION, HAS THE SAME ELEMENTS OF AN OFFENSE LISTED IN THIS SECTION, MAY BE
14 COMMENCED AT ANY TIME.

15 B. ANY CAUSE OF ACTION THAT IS BARRED AS OF THE EFFECTIVE DATE OF THIS
16 SECTION BECAUSE THE APPLICABLE PERIOD OF LIMITATION HAS EXPIRED IS REVIVED
17 AND AN ACTION MAY BE COMMENCED WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF
18 THIS SECTION.

19 C. ANY CAUSE OF ACTION BROUGHT PURSUANT TO SUBSECTION B OF THIS
20 SECTION MAY ONLY BE COMMENCED FOR CONDUCT THAT WAS COMMITTED AGAINST THE
21 MINOR THIRTY-FIVE YEARS OR LESS BEFORE THE EFFECTIVE DATE OF THIS SECTION OR
22 COMMENCED WITHIN THIRTY-FIVE YEARS AFTER THE MINOR REACHING EIGHTEEN YEARS OF
23 AGE.

24 D. IN ANY CIVIL ACTION FILED PURSUANT TO SUBSECTION B OF THIS SECTION,
25 A CERTIFICATE OF MERIT SHALL BE FILED BY THE ATTORNEY FOR THE PLAINTIFF. THE
26 CERTIFICATE OF MERIT SHALL CONTAIN A NOTARIZED STATEMENT BY A QUALIFIED
27 PSYCHOLOGIST OR BEHAVIORAL HEALTH PROFESSIONAL WHO IS LICENSED PURSUANT TO
28 TITLE 32, CHAPTER 19.1 OR 33 AND WHO IS KNOWLEDGEABLE IN THE RELEVANT FACTS

Senate Amendments to

1 AND ISSUES INVOLVED IN THE PARTICULAR ACTION AND SHALL STATE IN REASONABLE
2 DETAIL THE FACTS AND OPINIONS THAT THE PSYCHOLOGIST OR BEHAVIORAL HEALTH
3 PROFESSIONAL HAS RELIED ON FOR CONCLUDING THAT THERE IS A REASONABLE BASIS TO
4 BELIEVE THAT THE PLAINTIFF HAS BEEN SUBJECT TO ONE OR MORE ACTS THAT WOULD
5 CONSTITUTE AN OFFENSE LISTED IN SUBSECTION A OF THIS SECTION. THE
6 PSYCHOLOGIST OR BEHAVIORAL HEALTH PROFESSIONAL PROVIDING THE STATEMENT MAY
7 NOT BE A PARTY TO THE LITIGATION. ONE CERTIFICATE OF MERIT SHALL BE FILED
8 FOR EACH ACTION EVEN IF MORE THAN ONE DEFENDANT IS NAMED IN THE COMPLAINT OR
9 IS SUBSEQUENTLY NAMED.

10 E. ANY CLAIM BROUGHT UNDER THIS SECTION MUST BE BASED ON THE DIRECT
11 NEGLIGENT OR INTENTIONAL CONDUCT OF THE DEFENDANT. NO CLAIM BASED SOLELY ON
12 VICARIOUS LIABILITY CAN BE BROUGHT.”

13 Renumber to conform

14 Amend title to conform

3/30/10
1:38 PM
S: MM/dr