

1 SB11
2 196381-2
3 By Senator Coleman-Madison
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/15/2019

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to commencement of actions; to add Section
12 6-2-42 to the Code of Alabama 1975; to provide for the statute
13 of limitations for civil actions involving a sex offense; to
14 provide that the running of the statute of limitations is
15 tolled until the victim has reached the age of 19 years; and
16 to further provide for the tolling of the statute of
17 limitations.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 6-2-42 is added to the Code of
20 Alabama 1975, to read as follows:

21 §6-2-42.

22 (a) A civil action for recovery of damages for
23 injury or illness arising from a sex offense, as described by
24 Section 15-20A-5, Code of Alabama 1975, shall be brought
25 before whichever of the following periods last expires:

1 (1) Within six years of the commission of the sex
2 offense or the last of a series of sex offenses by the same
3 perpetrator.

4 (2) Within six years of the date the plaintiff knew,
5 or should have known, of the commission of the sex offense.

6 (3) Within six years after the plaintiff attains the
7 age of 19 years.

8 (4) Within six years of the criminal conviction of a
9 civil defendant for a sex offense.

10 (b) If a complaint is filed alleging that a sex
11 offense occurred more than 10 years prior to the date that the
12 action is commenced, and more than six years after the
13 plaintiff attains the age of 19, the allegations of the
14 complaint must be proven by clear and convincing evidence. and
15 more than 10 years after the plaintiff attains the age of 19,
16 the allegations of the complaint must be proven by clear and
17 convincing evidence.

18 (c) In an action subject to subsection (b), no
19 defendant may be named except by "Doe" designation in any
20 pleadings or papers filed in the action until there has been a
21 showing of corroborative fact as to the allegations against
22 the defendant. At any time after the action is filed, the
23 plaintiff may apply to the court for an order authorizing the
24 plaintiff to amend the complaint to substitute the name of the
25 defendant or defendants for the fictitious designation. The
26 application shall be accompanied by an affidavit of
27 corroborative fact executed by the attorney for the plaintiff.

1 The affidavit shall declare that the attorney has discovered
2 one or more facts corroborative of one or more of the charging
3 allegations against a defendant or defendants, and shall set
4 forth in clear and concise terms the nature and substance of
5 the corroborative fact. For purposes of this subsection, the
6 opinion of any mental health practitioner concerning the
7 plaintiff does not constitute a corroborative fact.

8 Section 2. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 05-MAR-19

Read for the second time and placed on the calen-
dar 1 amendment..... 20-MAR-19

Read for the third time and passed as amended 02-APR-19

Yeas 32
Nays 0

Patrick Harris,
Secretary.