

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2282

Introduced by

Senators Dwyer, Estenson, Vedaa

Representatives Cory, O'Brien, Pyle

1 A BILL for an Act to create and enact a new section to chapter 28-01 of the North Dakota
2 Century Code, relating to the limitation on claims for sexual assault; and to amend and reenact
3 sections 28-01-18, 28-01-22.1, 28-01-25.1, and 32-12.1-10, and subsection 1 of section
4 32-12.2-04 of the North Dakota Century Code, relating to limitations on civil actions alleging
5 sexual assault, sexual abuse, gross sexual imposition, or childhood sexual abuse, and the
6 notice requirement for claims against the state.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 28-01-18 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **28-01-18. Actions having two-year limitations.**

11 The~~Except as provided in section 4 of this Act, the~~ following actions must be commenced
12 within two years after the claim for relief has accrued:

- 13 1. An action for libel, slander, assault, battery, or false imprisonment.
- 14 2. An action upon a statute for a forfeiture or penalty to the state.
- 15 3. An action for the recovery of damages resulting from malpractice; provided,
16 however, that the limitation of an action against a physician or licensed hospital
17 will not be extended beyond six years of the act or omission of alleged
18 malpractice by a nondiscovery thereof unless discovery was prevented by the
19 fraudulent conduct of the physician or licensed hospital. This limitation is subject
20 to the provisions of section 28-01-25.
- 21 4. An action for injuries done to the person of another, when death ensues from
22 such injuries, and the claim for relief must be deemed to have accrued at the time
23 of the death of the party injured; provided, however, that when death ensues as
24 the result of malpractice, the claim for relief is deemed to have accrued at the

1 time of the discovery of the malpractice. However, the limitation will not be
2 extended beyond six years of the act or omission of alleged malpractice by a
3 nondiscovery thereof unless discovery was prevented by the fraudulent conduct
4 of the physician or hospital.

5 5. An action for recovery of damages arising under chapter 5-01, and the claim for
6 relief is deemed to have accrued at the time of the alleged offense. This limitation
7 does not apply to any claim for relief existing at the time of the enactment of this
8 subsection.

9 **SECTION 2. AMENDMENT.** Section 28-01-22.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **28-01-22.1. Actions against state - Limitation.**

- 12 1. When not otherwise specifically provided by law, an action against the state or its
13 employees and officials acting within the scope of their employment or office must be
14 commenced within three years after the claim for relief has accrued.
- 15 2. For purposes of this section, the claim for relief is deemed to have accrued at the time
16 it is discovered or might have been discovered in the exercise of reasonable diligence.
17 This may not be construed as a waiver of immunity.
- 18 3. Notwithstanding subsections 1 and 2, an action for relief that resulted from sexual
19 assault, sexual abuse, gross sexual imposition, or any other claim based on a sexual
20 act or sexual contact as defined in chapter 12.1-20 must be commenced:
- 21 a. Within nine years after the date the act occurred; or
- 22 b. Within twenty-one years after the date the act occurred, if the act occurred when
23 the plaintiff was under eighteen years of age.
- 24 4. If the plaintiff was under fifteen years of age when a claim for relief resulting from
25 sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a
26 sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable
27 twenty-one year period of limitation does not begin to run until the plaintiff has reached
28 fifteen years of age.

29 **SECTION 3. AMENDMENT.** Section 28-01-25.1 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **28-01-25.1. Limitation on actions alleging childhood sexual abuse.**

2 1. Notwithstanding section 28-01-25, a claim for relief resulting from childhood sexual
3 abuse must be commenced within ~~twenty-one~~ years after the plaintiff ~~knew or~~
4 reasonably should have known that a potential claim exists resulting from alleged
5 childhood sexual abuse accrued.

6 2. If the plaintiff was under fifteen years of age when the act resulting in a potential claim
7 for childhood sexual abuse occurred, the applicable twenty-one year period of
8 limitation does not begin to run until the plaintiff has reached fifteen years of age.

9 3. For purposes of this section, "childhood sexual abuse" means any act committed by
10 the defendant against the plaintiff which occurred when the plaintiff was under
11 eighteen years of age and which would have been a violation of chapter 12.1-20 or
12 12.1-27.2.

13 4. In a claim for relief under this section, the plaintiff is not required to establish which act
14 in a continuous series of sexual abuse acts by the defendant caused the injury.

15 **SECTION 4.** A new section to chapter 28-01 of the North Dakota Century Code is created
16 and enacted as follows:

17 **Limitation on claims for sexual assault.**

18 A claim for relief that resulted from sexual assault, sexual abuse, gross sexual imposition, or
19 any other claim based on a sexual act or sexual contact as defined in chapter 12.1-20 must be
20 commenced within nine years after the date of the act.

21 **SECTION 5. AMENDMENT.** Section 32-12.1-10 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **32-12.1-10. Statute of limitations.**

24 An

25 1. Except as otherwise provided in this section, an action brought under this chapter
26 must be commenced within three years after the claim for relief has accrued.

27 2. An action under this chapter for relief that resulted from sexual assault, sexual abuse,
28 gross sexual imposition, or any other claim based on a sexual act or sexual contact as
29 defined in chapter 12.1-20 must be commenced:

30 a. Within nine years after the date the act occurred; or

- 1 b. Within twenty-one years after the date the act occurred, if the act occurred when
2 the plaintiff was under eighteen years of age.
- 3 3. If the plaintiff was under fifteen years of age when a claim for relief resulting from
4 sexual assault, sexual abuse, gross sexual imposition, or any other claim based on a
5 sexual act or sexual contact as defined in chapter 12.1-20 occurred, the applicable
6 twenty-one year period of limitation does not begin to run until the plaintiff has reached
7 fifteen years of age.

8 **SECTION 6. AMENDMENT.** Subsection 1 of section 32-12.2-04 of the North Dakota
9 Century Code is amended and reenacted as follows:

- 10 1. a. A person bringing a claim against the state or a state employee for an injury shall
11 present to the director of the office of management and budget within one
12 hundred eighty days after the alleged injury is discovered or reasonably should
13 have been discovered a written notice stating the time, place, and circumstances
14 of the injury, the names of any state employees known to be involved, and the
15 amount of compensation or other relief demanded.
- 16 b. The time for giving the notice does not include the time during which a person
17 injured is incapacitated by the injury from giving the notice. If the claim is one for
18 death, the notice may be presented by the personal representative, surviving
19 spouse, or next of kin within one year after the alleged injury resulting in the
20 death.
- 21 c. The time for giving the notice is waived for a claim for relief that resulted from
22 sexual assault, sexual abuse, gross sexual imposition, or any other claim based
23 on a sexual act or sexual contact as defined in chapter 12.1-20.