

SENATE, No. 3151

STATE OF NEW JERSEY

216th LEGISLATURE

INTRODUCED SEPTEMBER 24, 2015

Sponsored by:

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

SYNOPSIS

Eliminates statute of limitations for mesothelioma actions.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning statute of limitations in certain actions and
2 amending N.J.S.2A:14-2 and N.J.S.2A:31-3.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.2A:14-2 is amended to read as follows:

8 2A:14-2. a. **Every** Except as provided in subsections b. and c.
9 of this section, every action at law for an injury to the person
10 caused by the wrongful act, neglect or default of any person within
11 this State shall be commenced within two years next after the cause
12 of any such action shall have accrued**;** except that an action by or
13 on behalf of a minor that has accrued for medical malpractice for
14 injuries sustained at birth shall be commenced prior to the minor's
15 13th birthday**].**

16 b. (1) An action by or on behalf of a minor that has accrued for
17 medical malpractice for injuries sustained at birth shall be
18 commenced prior to the minor's 13th birthday.

19 (2) In the event that an action by or on behalf of a minor that has
20 accrued for medical malpractice for injuries sustained at birth is not
21 commenced by the minor's parent or guardian prior to the minor's
22 12th birthday, the minor or a person 18 years of age or older
23 designated by the minor to act on the minor's behalf may commence
24 such an action. For this purpose, the minor or designated person
25 may petition the court for the appointment of a guardian ad litem to
26 act on the minor's behalf.

27 c. An action for damages for personal injury from mesothelioma
28 related to exposure to asbestos may be commenced at any time.
29 Such action shall be deemed to have accrued at the time of
30 reasonable discovery of the injury and its causal relationship to the
31 exposure to asbestos.

32 (cf: P.L.2004, c.17, s.3)

33

34 2. N.J.S.2A:31-3 is amended to read as follows:

35 2A:31-3 **Every** a. Except as provided in subsections b. and
36 c., every action brought under this chapter shall be commenced
37 within **2** two years after the death of the decedent, and not
38 thereafter**],** provided, however, that if the death resulted from
39 murder, aggravated manslaughter or manslaughter for which the
40 defendant has been convicted, found not guilty by reason of insanity
41 or adjudicated delinquent, the action may be brought at any time**].**

42 b. The provisions of subsection a. shall not apply to a cause of
43 action for death which resulted from murder, aggravated
44 manslaughter or manslaughter for which the defendant has been

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 convicted, found not guilty by reason of insanity or adjudicated
2 delinquent. Such action may be brought at any time.

3 c. The provisions of subsection a. shall not apply to a cause of
4 action for death from mesothelioma related to exposure to asbestos.
5 Such action may be brought at any time and shall be deemed to
6 have accrued at the time of reasonable discovery of the injury and
7 its causal relationship to the exposure to asbestos.

8 (cf: P.L.2000, c.157, s.1)

9

10 3. This act shall take effect immediately.

11

12

13

STATEMENT

14

15 According to the American Cancer Society, mesothelioma is a
16 rare and aggressive form of cancer which starts in the linings of
17 certain parts of the body, especially the lungs, chest or abdomen. In
18 the United States there are approximately 3,000 new cases
19 diagnosed each year. Most cases are caused by exposure to asbestos
20 particles.

21 Mesothelioma is difficult to detect and it can take years between
22 exposure to asbestos and diagnosis. Mesothelioma can remain
23 silent in the body for decades and then appear as a cough, shortness
24 of breath or difficulty breathing. As a result some people with this
25 illness may go years before being properly diagnosed.

26 Currently, the statute of limitations for personal injury and
27 wrongful death actions is two years. This bill would eliminate the
28 statute of limitations for civil actions for personal injury and
29 wrongful death caused by mesothelioma and provide those
30 aggrieved parties with the ability to bring their civil action at any
31 time. Such action would be deemed to have accrued at the time of
32 reasonable discovery of the injury and its causal relationship to
33 exposure of asbestos.