

2A:14-26.1

LEGISLATIVE HISTORY CHECKLIST
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(Statute of limitations)

NJSA: 2A:14-26.1

LAWS OF: 1996 CHAPTER: 23

BILL NO: S433

SPONSOR(S): Lynch and others

DATE INTRODUCED: January 18, 1996

COMMITTEE: ASSEMBLY: Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: No Senate committee substitute enacted

DATE OF PASSAGE: ASSEMBLY: May 6, 1996
SENATE: March 21, 1996

DATE OF APPROVAL: May 8, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached:
"Suing time for hemophiliacs extended," 3-5-96, Trenton Times."

one from library
JFY

Report, referred to:
362.1 Leveton, Lauren B.
Hiv HIV and the blood supply: an analysis of crisis decision making. National Acadmy Press, 1995.
KBP:pp

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 433

STATE OF NEW JERSEY

ADOPTED MARCH 7, 1996

Sponsored by Senators LYNCH and MATHEUSSEN

1 AN ACT concerning the statute of limitations in certain civil actions
2 and supplementing chapter 14 of Title 2A of the New Jersey
3 Statutes.

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

7
8 1. a. The Legislature finds and declares:

9 (1) Over one-half of the people with hemophilia in this country
10 were infected with the human immunodeficiency virus (HIV) in the
11 early 1980's from contaminated blood products.

12 (2) AIDS, unlike any other disease, stigmatizes and isolates its
13 victims. Victims, their families and survivors have been reluctant to
14 step forward and seek compensation for their injuries through the legal
15 system because of their legitimate fear of attendant publicity.

16 (3) Because of this fear, many did not seek timely redress. They
17 also were unaware that blood product manufacturers may have had the
18 technical capacity at the time to address the situation and may have
19 been responsible for their injuries. It is only very recently that a
20 government-sponsored report was issued indicating that the blood
21 products could have been virally inactivated prior to the advent of the
22 AIDS epidemic among blood product recipients.

23 (4) The scientific complexity of the issue, the compelling
24 psychological and emotional trauma associated with the disease, the
25 lack of publicly available information and the lack of definitive studies
26 at the time combined to create a singular, unique circumstance which
27 existing limitations principles are ill-suited to address.

28 (5) This act will provide a remedy for the bar which may be
29 imposed by the statute of limitations in these cases by setting a date
30 certain for the accrual of the cause of action.

31 (6) The Legislature expresses no opinion as to whether any blood
32 product manufacturers may, or may not, have actually been at fault for
33 the contracting of HIV and AIDS among blood product recipients. It
34 is simply the intent of the Legislature to allow these particular victims

1 "their day in court" in light of the unique and extraordinary
2 circumstances of their plight.

3 b. Notwithstanding the provisions of any other law to the
4 contrary, no action for damages based upon personal injury,
5 survivorship or wrongful death brought against a proprietary
6 manufacturer of blood products based on infusion of a blood product
7 resulting in contracting human immunodeficiency virus (HIV) or
8 acquired immunodeficiency syndrome (AIDS) shall be deemed to
9 accrue prior to July 13, 1995.

10 c. The provisions of this act shall apply to all pending claims,
11 including any action which has been filed with a court but not yet
12 dismissed or finally adjudicated.

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14 2. The provisions of this act shall be inapplicable to any civil
15 action governed by the statute of limitations of another jurisdiction.

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17 3. This act shall take effect immediately.

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22 Clarifies accrual of cause of action in certain suits by blood product
23 recipients.

SENATE, No. 433

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1996

By Senators LYNCH, MATHEUSSEN, Martin, Inverso,
Bryant, Zane, Girgenti, Lesniak, Kenny, Sinagra, Kosco,
McNamara, Haines, MacInnes, Adler, Rice, Casey, Lipman,
Sacco, Singer, O'Connor, Ciesla, Cafiero, McGreevey, Bennett,
LaRossa and Connors.

1 AN ACT concerning the statute of limitations in certain civil actions
2 and supplementing Title 2A of the New Jersey Statutes.

3

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

6

7 1. Notwithstanding the provisions of any other law to the contrary,
8 any cause of action against a proprietary manufacturer of blood
9 products for damages including personal injury, survivorship and
10 wrongful death involving the infusion of such blood products which
11 resulted in the contraction of the human immunodeficiency virus (HIV)
12 or AIDS by any person, the spouse or children of such person or the
13 estate of such person, which is barred by the applicable statute of
14 limitations on the effective date of this act, is revived and a civil action
15 may be filed provided that such action is filed within one year of the
16 effective date of this act.

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18 2. The provisions of this act shall be inapplicable to any civil action
19 governed by the statute of limitations of another jurisdiction.

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21 3. This act shall take effect immediately and shall expire one year
22 following enactment.

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SPONSORS STATEMENT

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27 Individuals who use commercial blood products, especially
28 individuals with hemophilia and other blood disorders, have been
29 devastated by illnesses caused by HIV infection including AIDS. Their
30 spouses and children have been devastated as well. These blood
31 products, which are sometimes known as "Factor VIII" and "Factor
32 IX," are manufactured by proprietary blood companies. The illnesses

1 caused by infusion of these blood products have been responsible for
2 great personal and economic hardship for the victims and their families
3 and have wrought terrible illness and death.

4 The Legislature recognizes that the epidemic of HIV and AIDS
5 infection among these individuals and their families was unique in the
6 annals of public health. The victims, through no fault of their own, did
7 not pursue legal remedies for compensation against the manufacturers:
8 the role of blood products as a cause of HIV infection was poorly
9 understood at the time, and the great consequences of HIV infection
10 were not immediately appreciated by the medical and scientific
11 communities and by victims. The Legislature specifically recognizes
12 that the social stigma associated with the disease prevented victims
13 and their families from stepping forward to institute timely legal
14 actions.

15 Victims were also not aware of the possibility that blood product
16 manufacturers could have used alternative processes at the time which
17 would have rendered the products safe, but that they failed to do so.

18 This possibility is documented in a report issued on July 13, 1995,
19 entitled "HIV and the Blood Supply: An Analysis of Crisis Decision
20 Making," by the Institute of Medicine, a distinguished panel of
21 scientific and medical professionals which was chartered by the
22 National Academy of Sciences.

23 The purpose of this bill is to provide an opportunity for victims to
24 litigate their claims without regard to outmoded concepts of the
25 statute of limitations. Providing a one-year "window" during which
26 actions may be filed permits victims to pursue their causes of action
27 without the necessity of litigating the statute of limitations in each
28 individual case.

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33 Revives certain civil actions barred by the statute of limitations.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 433

STATE OF NEW JERSEY

DATED: MAY 1, 1996

The Assembly Judiciary Committee reports favorably Senate Committee Substitute for Senate Bill No. 433.

This substitute would clarify the statute of limitations for certain persons bringing suit against proprietary manufacturers of blood products.

The substitute provides that in any case where the infusion of a contaminated blood product resulted in the contraction of HIV or AIDS, the action would not be deemed to accrue prior to July 13, 1995. Under the provisions of N.J.S.A.2A:14-2 of current law, which defines the statute of limitations in civil actions, a potential plaintiff must file suit within two years of the accrual of the cause of action in his case. Pursuant to N.J.S.A.2A:31-3, a suit alleging wrongful death must be brought within two years of the date of death.

July 13, 1995 is the date on which a definitive report by the national Institute of Medicine, "HIV and the Blood Supply: An Analysis of Crisis Decisionmaking," was issued. The report, which was prepared at the request of Congress, documents the inadequate responses of blood product manufacturers and others in the early 1980's to the growing realization that AIDS was transmitted through blood, and that this transmission posed a particular danger to hemophiliacs and others who infused blood products regularly.

The substitute would apply to all pending actions, including those which have been filed with the courts but not yet dismissed or finally adjudicated.

This substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 1494.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 433

STATE OF NEW JERSEY

DATED: MARCH 7, 1996

The Senate Judiciary Committee reports favorably a senate committee substitute for Senate Bill No. 433.

This substitute would clarify the statute of limitations for certain persons bringing suit against proprietary manufacturers of blood products.

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July 13, 1995 is the date on which a definitive report by the national Institute of Medicine, "HIV and the Blood Supply: An Analysis of Crisis Decisionmaking," was issued. The report, which was prepared at the request of Congress, documents the inadequate responses of blood product manufacturers and others in the early 1980's to the growing realization that AIDS was transmitted through blood, and that this transmission posed a particular danger to hemophiliacs and others who infused blood products regularly.

The substitute would apply to all pending actions, including those which have been filed with the courts but not yet dismissed or finally adjudicated.

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

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TRENTON, NJ 08625
RELEASE: WEDNESDAY
MAY 8, 1996

Gov. Christie Whitman today signed legislation giving persons infected with the HIV or AIDS virus as a result of blood transfusions additional time to sue the manufacturers of the blood product.

"This bill assures individuals who find themselves in tragic circumstances that their legal actions against manufacturers will be heard by the courts," said Gov. Whitman. "I believe that this bill balances constitutional concerns with the need for affected persons to have access to the courts."

S-433/A-1494 provides a two-year window, beginning on July 13, 1995, for persons to bring suit against blood product manufacturers. This date, recommended by the Hemophilia Association of New Jersey, is when the National Institute of Medicine issued a study of the blood products industry which asserted that the manufacturers acted inadequately to prevent the transmission of HIV and AIDS through blood and blood products.

The bill applies only to those cases governed by New Jersey's statute of limitations. This provision was included to prevent New Jersey from becoming a nationwide venue for these cases.

The provisions of the bill apply to all pending claims as well as claims that have not been yet been filed.

Sponsors of the bill were Senators John Lynch (D-Middlesex/Somerset/Union) and John Matheussen (R-Camden/Gloucester) and Assemblymembers Barbara Wright (R-Mercer/Middlesex) and Richard Bagger (R-Middlesex/Morris/Somerset/Union).