

ASSEMBLY, No. 1494

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Assemblywoman WRIGHT, Assemblyman BAGGER, Assemblywomen Allen, Bark, Crecco, Assemblymen Wolfe, Rocco, Azzolina, Gregg, Assemblywoman Vandervalk, Assemblymen LeFevre, Gibson, Blee, T. Smith, Augustine, Bateman, Lance, Kavanaugh, Assemblywomen Turner, Weinberg, Assemblymen Malone, Arnone, Assemblywoman J. Smith, Assemblymen Bucco, Garrett, Assemblywoman Farragher, Assemblymen Bodine, Cohen, DeSopo, Kelly, Assemblywoman Murphy, Assemblymen Impreveduto, Caraballo, Doria, Asselta, Rooney, Holzapfel, Assemblywoman Heck, Assemblyman Stanley, Assemblywoman Friscia, Assemblymen Wisniewski, Dalton, Suliga, Assemblywoman Cruz-Perez, Assemblymen Romano, Felice, Gusciora and Jones

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

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

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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.

1 STATEMENT

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4 This bill would revive certain causes of action against proprietary
5 manufacturers of blood products. The bill would apply to civil actions
6 for damages, arising out of contracting HIV or AIDS from infusing the
7 blood products, which would otherwise be barred by the statute of
8 limitations. The bill would grant a one-year "window" during which
9 these actions may be filed. The bill expires one year following its
10 enactment.

11 Individuals who use commercial blood products, especially
12 individuals with hemophilia and other blood disorders, have been
13 devastated by illnesses caused by HIV infection including AIDS. Their
14 spouses and children have been devastated as well. These blood
15 products, which are sometimes known as "Factor VIII" and "Factor
16 IX," are manufactured by proprietary blood companies. The illnesses
17 caused by infusion of these blood products have been responsible for
18 great personal and economic hardship for the victims and their families
19 and have wrought terrible illness and death.

20 The Legislature recognizes that the epidemic of HIV and AIDS
21 infection among these individuals and their families was unique in the
22 annals of public health. The victims, through no fault of their own, did
23 not pursue legal remedies for compensation against the manufacturers:
24 the role of blood products as a cause of HIV infection was poorly
25 understood at the time, and the great consequences of HIV infection
26 were not immediately appreciated by the medical and scientific
27 communities and by victims. The Legislature specifically recognizes
28 that the social stigma associated with the disease prevented victims
29 and their families from stepping forward to institute timely legal
30 actions.

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

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

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

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