

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 661 Session of 2015

INTRODUCED BY ROZZI, STURLA, YOUNGBLOOD, McNEILL, BARRAR,
KINSEY, BROWNLEE, SCHREIBER, O'BRIEN, GAINNEY, MURT, ACOSTA,
FARINA AND COHEN, FEBRUARY 27, 2015

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 27, 2015

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in limitation of time,
3 further providing for six months limitation and for tolling
4 limitations of certain civil actions; and, in matters
5 affecting government units, further providing for exceptions
6 to sovereign immunity and governmental immunity.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Sections 5522(a) and 5533(b) of Title 42 of the
10 Pennsylvania Consolidated Statutes are amended to read:

11 § 5522. Six months limitation.

12 (a) Notice prerequisite to action against government unit.--

13 (1) [Within] Except as provided under paragraph (1.1),
14 within six months from the date that any injury was sustained
15 or any cause of action accrued, any person who is about to
16 commence any civil action or proceeding within this
17 Commonwealth or elsewhere against a government unit for
18 damages on account of any injury to his person or property
19 under Chapter 85 (relating to matters affecting government

1 units) or otherwise shall file in the office of the
2 government unit, and if the action is against a Commonwealth
3 agency for damages, then also file in the office of the
4 Attorney General, a statement in writing, signed by or in his
5 behalf, setting forth:

6 (i) The name and residence address of the person to
7 whom the cause of action has accrued.

8 (ii) The name and residence address of the person
9 injured.

10 (iii) The date and hour of the accident.

11 (iv) The approximate location where the accident
12 occurred.

13 (v) The name and residence or office address of any
14 attending physician.

15 (1.1) Paragraph (1) shall not apply to a civil action
16 arising from childhood sexual abuse, as defined under §
17 5533(b)(2)(ii).

18 (2) If the statement provided for by this subsection is
19 not filed, any civil action or proceeding commenced against
20 the government unit more than six months after the date of
21 injury to person or property shall be dismissed and the
22 person to whom any such cause of action accrued for any
23 injury to person or property shall be forever barred from
24 proceeding further thereon within this Commonwealth or
25 elsewhere. The court shall excuse failure to comply with this
26 requirement upon a showing of reasonable excuse for failure
27 to file such statement.

28 (3) In the case of a civil action or proceeding against
29 a government unit other than the Commonwealth government:

30 (i) The time for giving such written notice does not

1 include the time during which an individual injured is
2 unable, due to incapacitation or disability from the
3 injury, to give notice, not exceeding 90 days of
4 incapacity.

5 (ii) If the injuries to an individual result in
6 death, the time for giving notice shall commence with
7 such death.

8 (iii) Failure to comply with this subsection shall
9 not be a bar if the government unit had actual or
10 constructive notice of the incident or condition giving
11 rise to the claim of a person.

12 * * *

13 § 5533. Infancy, insanity or imprisonment.

14 * * *

15 (b) Infancy.--

16 (1) (i) If an individual entitled to bring a civil
17 action is an unemancipated minor at the time the cause of
18 action accrues, the period of minority shall not be
19 deemed a portion of the time period within which the
20 action must be commenced. Such person shall have the same
21 time for commencing an action after attaining majority as
22 is allowed to others by the provisions of this
23 subchapter.

24 (ii) As used in this paragraph, the term "minor"
25 shall mean any individual who has not yet attained 18
26 years of age.

27 (2) (i) If an individual entitled to bring a civil
28 action arising from childhood sexual abuse is under 18
29 years of age at the time the cause of action accrues, the
30 individual shall have a period of [12] 32 years after

1 attaining 18 years of age in which to commence an action
2 for damages regardless of whether the individual files a
3 criminal complaint regarding the childhood sexual abuse.

4 (ii) For the purposes of this paragraph, the term
5 "childhood sexual abuse" shall include, but not be
6 limited to, the following sexual activities between a
7 minor and an adult, provided that the individual bringing
8 the civil action engaged in such activities as a result
9 of forcible compulsion or by threat of forcible
10 compulsion which would prevent resistance by a person of
11 reasonable resolution:

12 (A) sexual intercourse, which includes
13 penetration, however slight, of any body part or
14 object into the sex organ of another;

15 (B) deviate sexual intercourse, which includes
16 sexual intercourse per os or per anus; and

17 (C) indecent contact, which includes any
18 touching of the sexual or other intimate parts of the
19 person for the purpose of arousing or gratifying
20 sexual desire in either person.

21 (iii) For purposes of this paragraph, "forcible
22 compulsion" shall have the meaning given to it in 18
23 Pa.C.S. § 3101 (relating to definitions).

24 (3) If a person committing an act of childhood sexual
25 abuse against a minor was employed by an institution, agency,
26 firm, business, corporation or other public or private legal
27 entity that owed a duty of care to the victim, or the accused
28 and the minor were engaged in some activity over which the
29 entity had some degree of responsibility or control, damages
30 against the entity shall be awarded only if there is a

1 finding of gross negligence on the part of the entity.

2 Section 2. Sections 8522(b) and 8542(b) of Title 42 are
3 amended by adding paragraphs to read:

4 § 8522. Exceptions to sovereign immunity.

5 * * *

6 (b) Acts which may impose liability.--The following acts by
7 a Commonwealth party may result in the imposition of liability
8 on the Commonwealth and the defense of sovereign immunity shall
9 not be raised to claims for damages caused by:

10 * * *

11 (10) Child sexual abuse.--Acts of child sexual abuse
12 which constitute gross negligence when committed by
13 individuals employed by a public institution, agency or other
14 legal entity for which actions are brought under section
15 5533(b) (relating to infancy, insanity or imprisonment).

16 § 8542. Exceptions to governmental immunity.

17 * * *

18 (b) Acts which may impose liability.--The following acts by
19 a local agency or any of its employees may result in the
20 imposition of liability on a local agency:

21 * * *

22 (9) Child sexual abuse.--Acts of child sexual abuse
23 which constitute gross negligence when committed by
24 individuals employed by a public institution, agency or other
25 legal entity for which actions are brought under section
26 5533(b) (relating to infancy, insanity or imprisonment).

27 * * *

28 Section 3. The amendment of 42 Pa.C.S. §§ 5522(a) and
29 5533(b) shall apply to acts of child sexual abuse committed
30 before, on or after the effective date of this section.

1 Section 4. This act shall take effect in 60 days.