

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1185 Session of
2013

INTRODUCED BY ROZZI, MCGEEHAN, FARINA, YOUNGBLOOD, BARRAR,
SCHLOSSBERG, SWANGER, KIM, COHEN, O'BRIEN AND FREEMAN,
APRIL 15, 2013

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 15, 2013

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in limitation of time,
3 further providing for tolling limitations of civil action.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5533(b) of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 5533. Infancy, insanity or imprisonment.

9 * * *

10 (b) Infancy.--

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

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

(2) (i) If an individual entitled to bring a civil action arising from childhood sexual abuse is under 18 years of age at the time the cause of action accrues, the individual shall have a period of [12] 32 years after attaining 18 years of age in which to commence an action for damages regardless of whether the individual files a criminal complaint regarding the childhood sexual abuse.

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

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

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

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

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

1 (3) Notwithstanding any other provision of law, a civil
2 action that would be permitted to be filed pursuant to
3 paragraph (2), but for the time limitation contained in
4 paragraph (2) to commence an action for damages or any other
5 statute of limitations, is revived, and such a civil action
6 may be commenced within two years of the effective date of
7 this paragraph. Nothing in this subsection shall be construed
8 to alter the applicable statute of limitations period of a
9 civil action arising from childhood sexual abuse that is not
10 time barred as of the effective date of this paragraph.

11 (4) If a person committing an act of childhood sexual
12 abuse against a minor was employed by an institution, agency,
13 firm, business, corporation or other public or private legal
14 entity that owed a duty of care to the victim, or the accused
15 and the minor were engaged in some activity over which the
16 entity had some degree of responsibility or control, damages
17 against the entity shall be awarded under paragraph (3) only
18 if there is a finding of gross negligence on the part of the
19 entity.

20 (5) If an individual or the individual's legal
21 representative has previously brought a civil action arising
22 from childhood sexual abuse and that suit has been dismissed
23 because it was filed beyond the statute of limitations that
24 applied at that time, the individual or the individual's
25 legal representative may petition the court to reopen the
26 action within the period provided in paragraph (3). The court
27 may grant the petition if it determines that any of the
28 following exist:

29 (i) The victim of the childhood abuse was under 30
30 years of age at the time the statute of limitations

1 expired.

2 (ii) The existence of newly discovered evidence
3 that, with reasonable diligence, could not have been
4 discovered before the prior statute of limitations
5 expired.

6 (iii) Fraud, inexcusable neglect, misrepresentation
7 or misconduct by an opposing party.

8 (iv) Any other extraordinary circumstances that the
9 court believes are in the interest of justice.

10 Section 2. This act shall take effect in 60 days.