

AMENDMENTS TO HOUSE BILL NO. 951

Sponsor: REPRESENTATIVE GREGORY

Printer's No. 959

1 Amend Bill, page 1, lines 1 through 5, by striking out all of
2 said lines and inserting

3 Amending Title 42 (Judiciary and Judicial Procedure) of the
4 Pennsylvania Consolidated Statutes, in limitation of time,
5 further providing for infancy, insanity or imprisonment; in
6 matters affecting government units, further providing for
7 exceptions to sovereign immunity and for exceptions to
8 governmental immunity; and making a related repeal.

9 Amend Bill, page 1, lines 8 through 20; page 2, lines 1
10 through 30; by striking out all of said lines on said pages and
11 inserting

12 Section 1. Section 5533(b) of Title 42 of the Pennsylvania
13 Consolidated Statutes is amended and the section is amended by
14 adding subsections to read:

15 § 5533. Infancy, insanity or imprisonment.

16 * * *

17 (b) Infancy.--

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

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

29 (2) (i) If an individual entitled to bring a civil
30 action arising from sexual abuse is under 18 years of age
31 at the time the cause of action accrues, the individual
32 shall have a period of 37 years after attaining 18 years
33 of age in which to commence an action for damages
34 regardless of whether the individual files a criminal
35 complaint regarding the sexual abuse.

1 (i.1) If an individual entitled to bring a civil
2 action arising from sexual abuse is at least 18 and less
3 than 24 years of age at the time the cause of action
4 occurs, the individual shall have until attaining 30
5 years of age to commence an action for damages regardless
6 of whether the individual files a criminal complaint
7 regarding the sexual abuse.

8 [(ii) For the purposes of this paragraph, the term
9 "sexual abuse" shall include, but not be limited to, the
10 following sexual activities between an individual who is
11 23 years of age or younger and an adult, provided that
12 the individual bringing the civil action engaged in such
13 activities as a result of forcible compulsion or by
14 threat of forcible compulsion which would prevent
15 resistance by a person of reasonable resolution:

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

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

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

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

28 (c) Temporary window to file claims.--Notwithstanding
29 subsection (b) or any other provision of law to the contrary,
30 for an individual entitled to bring a civil action arising from
31 sexual abuse if the individual was under 18 years of age at the
32 time the cause of action accrued, and if the limitation period
33 for that cause of action has expired, the civil action is
34 revived and the individual shall have an additional period of
35 two years from the effective date of this subsection to commence
36 an action.

37 (d) Definitions.--As used in this section, the following
38 words and phrases shall have the meanings given to them in this
39 subsection unless the context clearly indicates otherwise:

40 "Forcible compulsion." As defined in 18 Pa.C.S. § 3101
41 (relating to definitions).

42 "Minor." An individual who has not yet attained 18 years of
43 age.

44 "Sexual abuse." The term shall include, but not be limited
45 to, the following sexual activities between an individual who is
46 23 years of age or younger and an adult, provided that the
47 individual bringing the civil action engaged in such activities
48 as a result of forcible compulsion or by threat of forcible
49 compulsion which would prevent resistance by a person of
50 reasonable resolution:

51 (1) sexual intercourse, which includes penetration,

1 however slight, of any body part or object into the sex organ
2 of another;

3 (2) deviate sexual intercourse, which includes sexual
4 intercourse per os or per anus; and

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

8 Section 2. Sections 8522(b)(10) and 8542(b)(9) of Title 42
9 are amended to read:

10 § 8522. Exceptions to sovereign immunity.

11 * * *

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

16 * * *

17 (10) Sexual abuse.--The following shall apply:

18 (i) Conduct which constitutes an offense enumerated
19 under section 5551(7) (relating to no limitation
20 applicable) if the injuries to the plaintiff were caused
21 by actions or omissions of the Commonwealth party which
22 constitute negligence.

23 (ii) This paragraph shall apply retroactively to a
24 cause of action that arose prior to the effective date of
25 this subparagraph and prospectively to a cause of action
26 that arises after the effective date of this
27 subparagraph.

28 § 8542. Exceptions to governmental immunity.

29 * * *

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

33 * * *

34 (9) Sexual abuse.--The following shall apply:

35 (i) Conduct which constitutes an offense enumerated
36 under section 5551(7) (relating to no limitation
37 applicable) if the injuries to the plaintiff were caused
38 by actions or omissions of the local agency which
39 constitute negligence.

40 (ii) This paragraph shall apply retroactively to a
41 cause of action that arose prior to the effective date of
42 this subparagraph and prospectively to a cause of action
43 that arises after the effective date of this
44 subparagraph.

45 * * *

46 Section 3. This act shall apply as follows:

47 (1) The addition of 42 Pa.C.S. § 5533(c) shall apply to
48 revive an action that was barred by an existing statute of
49 limitations on the effective date of this section.

50 (2) The amendment of 42 Pa.C.S. §§ 8522 (b)(10) and 8542
51 (b)(9) shall apply retroactively to an action where the

1 limitations period has not expired prior to the effective
2 date of this section.

3 (3) The amendment of 42 Pa.C.S. §§ 8522(b)(10) and 8542
4 (b)(9) shall apply to an action subject to 42 Pa.C.S. §
5 5533(c) that was barred by an existing statute of limitations
6 on the effective date of this section.

7 Section 4. Nothing in this act shall permit the application
8 of the addition of 42 Pa.C.S. § 5533(c) to an action:

9 (1) that is subject to a final judgment which, on the
10 effective date of this section, is not subject to appeal; or

11 (2) that, on the effective date of this section, has
12 been nonjudicially resolved in its entirety by the parties,
13 in a form which is enforceable.

14 Section 4.1. The Supreme Court of Pennsylvania shall have
15 extraordinary jurisdiction to hear a challenge to or to render a
16 declaratory judgment concerning the constitutionality of this
17 act. The Supreme Court of Pennsylvania may take action as it
18 deems appropriate, consistent with the Supreme Court retaining
19 jurisdiction over the matter, to find facts or to expedite a
20 final judgment in connection with the challenge or request for
21 declaratory relief.

22 Section 5. Repeals are as follows:

23 (1) The General Assembly declares that the repeal under
24 paragraph (2) is necessary to effectuate the amendment of 42
25 Pa.C.S. §§ 8522(b)(10) and 8542(b)(9).

26 (2) Section 10(3)(ii) of the act of November 26, 2019
27 (P.L.641, No.87), is repealed insofar as the section applies
28 to 42 Pa.C.S. §§ 8522(b)(10) and 8542(b)(9).

29 Section 6. This act shall take effect immediately.