

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 261 Session of
2017

INTRODUCED BY SCARNATI, CORMAN AND GORDNER, JANUARY 30, 2017

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 4, 2017

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, FOR infancy, <--
4 insanity or imprisonment, for no limitation applicable and
5 for other offenses; and, in matters affecting government
6 units, further providing for exceptions to sovereign immunity
7 ~~and~~, FOR LIMITATIONS ON DAMAGES, for exceptions to <--
8 governmental immunity AND FOR LIMITATIONS ON DAMAGES. <--

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The General Assembly finds and declares as
12 follows:

13 (1) The Remedies Clause found in section 11 of Article I
14 of the Constitution of Pennsylvania has been interpreted by
15 the Pennsylvania Supreme Court to provide a constitutional
16 guarantee of access to legal remedies and defenses.

17 (2) The Pennsylvania Supreme Court has interpreted the
18 Remedies Clause as providing a vested right to accrued
19 defenses that cannot be infringed upon by subsequent law.

20 (3) Pursuant to the interpretation by the Pennsylvania

1 Supreme Court, the General Assembly is constitutionally
2 precluded from adopting a retroactive change extending a
3 statute of limitations or invalidating a defense based on a
4 statute of limitations that has already expired as against a
5 particular defendant.

6 (4) Statutes of limitation recognize that the right to
7 assert a cause of action and the right to assert a defense to
8 that action are on an equal footing in this Commonwealth.

9 (5) Statutes of limitation promote diligence and repose,
10 diminish uncertainty and allow every person to allocate
11 resources appropriately.

12 (6) Statutes of limitation promote accurate fact finding
13 in litigation, as evidence and testimony become degraded or
14 unavailable over time.

15 (7) Therefore, it is the intent of the General Assembly
16 to eliminate statutes of limitation only in rare
17 circumstances in which delayed discovery of the cause of
18 action is particularly likely and the right to defend against
19 the claim is not significantly undermined.

20 ~~Section 2. Section 5533(b)(2)(i) of Title 42 of the~~ <--
21 ~~Pennsylvania Consolidated Statutes is amended and the section is~~
22 ~~amended by adding a paragraph to read:~~

23 SECTION 2. SECTION 5522 OF TITLE 42 OF THE PENNSYLVANIA <--
24 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBSECTION TO READ:
25 § 5522. SIX MONTHS LIMITATION.

26 * * *

27 (C) EXCEPTION.--THIS SECTION SHALL NOT APPLY TO ANY CIVIL
28 ACTION OR PROCEEDING BROUGHT UNDER SECTION 8522(B)(10) (RELATING
29 TO EXCEPTIONS TO SOVEREIGN IMMUNITY) OR 8542(B)(9) (RELATING TO
30 EXCEPTIONS TO GOVERNMENTAL IMMUNITY).

1 SECTION 3. SECTION 5533(B) (2) (I) OF TITLE 42 IS AMENDED TO
2 READ:

3 § 5533. Infancy, insanity or imprisonment.

4 * * *

5 (b) Infancy.--

6 * * *

7 (2) (i) ~~{If} Except as provided under paragraph (3), if~~ <--
8 an individual entitled to bring a civil action arising
9 from childhood sexual abuse is under 18 years of age at
10 the time the cause of action accrues, the individual
11 shall have a period of [12] 32 years after attaining 18
12 years of age in which to commence an action for damages
13 regardless of whether the individual files a criminal
14 complaint regarding the childhood sexual abuse.

15 * * *

16 ~~(3) If an individual entitled to bring a civil action~~ <--
17 ~~arising from childhood sexual abuse is under 18 years of age~~
18 ~~at the time the cause of action accrues, the individual shall~~
19 ~~have an unlimited period of time to commence an action for~~
20 ~~damages against the following individuals:~~

21 ~~(i) The individual who committed the act of~~
22 ~~childhood sexual abuse.~~

23 ~~(ii) An individual who conspired with the individual~~
24 ~~who committed the act of childhood sexual abuse for the~~
25 ~~purpose of bringing about the abuse.~~

26 ~~(iii) (A) An individual who, having actual~~
27 ~~knowledge of the childhood sexual abuse perpetrated~~
28 ~~against the individual, failed to prevent any~~
29 ~~subsequent childhood sexual abuse by the same~~
30 ~~perpetrator against the same individual by reporting~~

~~the abuse to law enforcement officials or to a State
or county child protective services agency during the
victim's minority.~~

~~(B) No cause of action shall accrue under this
subparagraph against an individual who was aware that
a report of the childhood sexual abuse had already
been made by another individual or entity to law
enforcement officials or to a State or county child
protective services agency.~~

Section 4. Section 5551 of Title 42 is amended by adding a <--
paragraph to read:

§ 5551. No limitation applicable.

A prosecution for the following offenses may be commenced at
any time:

* * *

(7) An offense under any of the following provisions of
18 Pa.C.S. (relating to crimes and offenses), or a conspiracy
or solicitation to commit an offense under any of the
following provisions of 18 Pa.C.S. if the offense is <--
facilitated by IF THE OFFENSE RESULTS FROM the conspiracy or <--
solicitation, if the victim was under 18 years of age at the
time of the offense:

Section 3011(b) (relating to trafficking in individuals).

Section 3012 (relating to involuntary servitude) as it
relates to sexual servitude.

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual
intercourse).

Section 3124.1 (relating to sexual assault).

1 Section 3124.2 (relating to institutional sexual
2 assault).

3 Section 3125 (relating to aggravated indecent assault).

4 Section 4302 (relating to incest).

5 Section 4 5. Section 5552(b.1) and (c) (3) of Title 42 are <--
6 amended to read:

7 § 5552. Other offenses.

8 * * *

9 (b.1) Major sexual offenses.--[A] Except as provided in
10 section 5551(7) (relating to no limitation applicable), a
11 prosecution for any of the following offenses under Title 18
12 must be commenced within 12 years after it is committed:

13 Section 3121 (relating to rape).

14 Section 3122.1 (relating to statutory sexual assault).

15 Section 3123 (relating to involuntary deviate sexual
16 intercourse).

17 Section 3124.1 (relating to sexual assault).

18 Section 3124.2(a) and (a.2) (relating to institutional
19 sexual assault).

20 Section 3125 (relating to aggravated indecent assault).

21 Section 4302 (relating to incest).

22 Section 6312 (relating to sexual abuse of children).

23 (c) Exceptions.--If the period prescribed in subsection (a),
24 (b) or (b.1) has expired, a prosecution may nevertheless be
25 commenced for:

26 * * *

27 (3) Any sexual offense committed against a minor who is
28 less than 18 years of age any time up to the later of the
29 period of limitation provided by law after the minor has
30 reached 18 years of age or the date the minor reaches 50

1 years of age. As used in this paragraph, the term "sexual
2 offense" means a crime under the following provisions of
3 Title 18 (relating to crimes and offenses) OR A CONSPIRACY OR <--
4 SOLICITATION TO COMMIT AN OFFENSE UNDER ANY OF THE FOLLOWING
5 PROVISIONS OF 18 PA.C.S. IF THE OFFENSE RESULTS FROM THE
6 CONSPIRACY OR SOLICITATION:

7 [Section 3011(b) (relating to trafficking in
8 individuals).

9 Section 3012 (relating to involuntary servitude) as
10 it relates to sexual servitude.

11 Section 3121 (relating to rape).

12 Section 3122.1 (relating to statutory sexual
13 assault).

14 Section 3123 (relating to involuntary deviate sexual
15 intercourse).

16 Section 3124.1 (relating to sexual assault).

17 Section 3125 (relating to aggravated indecent
18 assault).]

19 Section 3126 (relating to indecent assault).

20 Section 3127 (relating to indecent exposure).

21 [Section 4302 (relating to incest).]

22 Section 4304 (relating to endangering welfare of
23 children).

24 Section 6301 (relating to corruption of minors).

25 Section 6312(b) (relating to sexual abuse of
26 children).

27 Section 6320 (relating to sexual exploitation of
28 children).

29 * * *

30 ~~Section 5. Sections 8522(b) and 8542(b) of Title 42 are <--~~

1 ~~amended by adding paragraphs to read:~~

2 SECTION 6. SECTION 8522(B) OF TITLE 42 IS AMENDED BY ADDING <--
3 A PARAGRAPH 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) Sexual abuse.--Conduct that constitutes an offense
12 enumerated under section 5551(7) (relating to no limitation
13 applicable) if the injuries to the plaintiff were caused by
14 actions or omissions of the Commonwealth A COMMONWEALTH PARTY <--
15 that constitute negligence.

16 SECTION 7. SECTION 8528 OF TITLE 42 IS AMENDED BY ADDING A <--
17 SUBSECTION TO READ:

18 § 8528. LIMITATIONS ON DAMAGES.

19 * * *

20 (D) EXCLUSIONS.--THIS SECTION SHALL NOT APPLY TO DAMAGES
21 AWARDED UNDER SECTION 8522(B)(10) (RELATING TO EXCEPTIONS TO
22 SOVEREIGN IMMUNITY).

23 SECTION 8. SECTION 8542(B) OF TITLE 42 IS AMENDED BY ADDING
24 A PARAGRAPH TO READ:

25 § 8542. Exceptions to governmental immunity.

26 * * *

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

30 * * *

1 ~~(9) Sexual abuse. Conduct that is proscribed by section <--~~
2 ~~5551(7) (relating to no limitation applicable) if the~~
3 ~~claimant establishes that:~~

4 ~~(i) the local agency acted in a negligent manner;~~

5 ~~and~~

6 ~~(ii) the action under subparagraph (i) caused injury~~
7 ~~to the claimant.~~

8 (9) SEXUAL ABUSE.--CONDUCT THAT CONSTITUTES AN OFFENSE <--
9 ENUMERATED UNDER SECTION 5551(7) (RELATING TO NO LIMITATION
10 APPLICABLE) IF THE INJURIES TO THE PLAINTIFF WERE CAUSED BY
11 ACTIONS OR OMISSIONS OF THE LOCAL AGENCY THAT CONSTITUTE
12 NEGLIGENCE.

13 * * *

14 SECTION 9. SECTION 8553 OF TITLE 42 IS AMENDED BY ADDING A <--
15 SUBSECTION TO READ:

16 § 8553. LIMITATIONS ON DAMAGES.

17 * * *

18 (E) EXCLUSIONS.--THIS SECTION SHALL NOT APPLY TO DAMAGES
19 AWARDED UNDER SECTION 8542(B) (9) (RELATING TO EXCEPTIONS TO
20 GOVERNMENTAL IMMUNITY).

21 Section 6 10. This act shall apply as follows: <--

22 (1) The addition of 42 Pa.C.S. §§ ~~5533(b)(3)~~, 8522(b) <--
23 (10) and 8542(b)(9) shall apply to causes of action which
24 accrue on or after the effective date of this section.

25 (2) The amendment or addition of 42 Pa.C.S. §§ 5533(b)
26 (2)(i) ~~and (3)~~, 5551(7) and 5552(b.1) and (c)(3) shall not be <--
27 applied to revive an action that has been barred by an
28 existing statute of limitations on the effective date of this
29 section.

30 Section 7 11. This act shall take effect immediately. <--