

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 14 Session of
2021

INTRODUCED BY GREGORY, ROZZI, MILLARD, SANCHEZ, SCHLOSSBERG AND
SCHMITT, JANUARY 11, 2021

SENATOR BAKER, JUDICIARY, IN SENATE, AS AMENDED, MARCH 16, 2021

A JOINT RESOLUTION

1 Proposing an EMERGENCY amendment to the Constitution of the <--
2 Commonwealth of Pennsylvania, further providing for courts to
3 be open and suits against the Commonwealth.

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

6 ~~Section 1. The following amendment to the Constitution of~~ <--
7 ~~Pennsylvania is proposed in accordance with Article XI:~~

8 ~~That Section 11 of Article I be amended to read:~~

9 ~~§ 11. Courts to be open; suits against the Commonwealth.~~

10 ~~(a) All courts shall be open; and every man for an injury~~
11 ~~done him in his lands, goods, person or reputation shall have~~
12 ~~remedy by due course of law, and right and justice administered~~
13 ~~without sale, denial or delay. Suits may be brought against the~~
14 ~~Commonwealth in such manner, in such courts and in such cases as~~
15 ~~the Legislature may by law direct.~~

16 ~~(b) An individual for whom a statutory limitations period~~
17 ~~has already expired shall have a period of two years from the~~

~~1 time that this subsection becomes effective to commence an
2 action arising from childhood sexual abuse, in such cases as
3 provided by law at the time that this subsection becomes
4 effective.~~

~~5 Section 2. (a) Upon the first passage by the General
6 Assembly of this proposed constitutional amendment, the
7 Secretary of the Commonwealth shall proceed immediately to
8 comply with the advertising requirements of section 1 of Article
9 XI of the Constitution of Pennsylvania and shall transmit the
10 required advertisements to two newspapers in every county in
11 which such newspapers are published in sufficient time after
12 passage of this proposed constitutional amendment.~~

~~13 (b) Upon the second passage by the General Assembly of this
14 proposed constitutional amendment, the Secretary of the
15 Commonwealth shall proceed immediately to comply with the
16 advertising requirements of section 1 of Article XI of the
17 Constitution of Pennsylvania and shall transmit the required
18 advertisements to two newspapers in every county in which such
19 newspapers are published in sufficient time after passage of
20 this proposed constitutional amendment. The Secretary of the
21 Commonwealth shall submit this proposed constitutional amendment
22 to the qualified electors of this Commonwealth at the first
23 primary, general or municipal election which meets the
24 requirements of and is in conformance with section 1 of Article
25 XI of the Constitution of Pennsylvania and which occurs at least
26 three months after the proposed constitutional amendment is
27 passed by the General Assembly.~~

28 SECTION 1. THE FOLLOWING SHALL APPLY: <--

29 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

30 (I) A CONSTITUTIONAL AMENDMENT CREATING A TWO-YEAR

1 WINDOW FOR VICTIMS TO BRING CIVIL ACTIONS AGAINST THEIR
2 ABUSERS UNENCUMBERED BY THE STATUTE OF LIMITATIONS, THE
3 DOCTRINE OF SOVEREIGN IMMUNITY OR THE CAP ON DAMAGES
4 PLACED ON LITIGATION AGAINST PUBLIC ENTITIES, WAS
5 INITIALLY PASSED BY JOINT RESOLUTION 2 OF 2019 (P.L.835,
6 J.R.2) .

7 (II) SECTION 1 OF ARTICLE XI OF THE CONSTITUTION OF
8 PENNSYLVANIA REQUIRES AN AMENDMENT TO THE CONSTITUTION OF
9 PENNSYLVANIA TO BE PASSED BY A MAJORITY IN EACH CHAMBER
10 IN CONSECUTIVE LEGISLATIVE SESSIONS AND PUBLISHED BY THE
11 SECRETARY OF THE COMMONWEALTH.

12 (III) THE CONSTITUTIONAL AMENDMENT IN SUBPARAGRAPH
13 (I) COULD BE SUBMITTED ON MAY 18, 2021, TO THE ELECTORS
14 UPON PASSAGE IN THIS LEGISLATIVE SESSION BUT FOR THE
15 FAILURE OF THE SECRETARY OF THE COMMONWEALTH TO PUBLISH
16 CONSTITUTIONALLY REQUIRED NOTICE.

17 (IV) THE SECRETARY'S FAILURE FRUSTRATES THE
18 CONSTITUTIONAL AMENDMENT PROCESS; DENIES THE PEOPLE OF
19 PENNSYLVANIA THEIR OPPORTUNITY TO HAVE THEIR VOICES HEARD
20 IN AMENDING THEIR CONSTITUTION; AND, THREATENS THE VERY
21 NATURE OF THE COMMONWEALTH'S REPUBLICAN FORM OF
22 GOVERNMENT.

23 (V) THE FAILURE UNDER SUBPARAGRAPH (III) REQUIRES
24 SEVERAL ADDITIONAL YEARS TO REMEDY, PREVENTS THE
25 AMENDMENT FROM BEING PRESENTED TO THE ELECTORS ON MAY 18,
26 2021, AND IS AN ACT BEYOND THE CONTROL OF THE GENERAL
27 ASSEMBLY AND OF THE CITIZENS AND, THEREFORE, CONSTITUTES
28 AN EMERGENCY.

29 (2) THE GENERAL ASSEMBLY HEREBY DETERMINES THAT THE
30 DEPRIVATION OF THE RIGHTS GRANTED TO THE PEOPLE OF THIS

1 COMMONWEALTH TO VOTE ON AN AMENDMENT TO PENNSYLVANIA'S
2 CHARTERING DOCUMENT BY AN UNELECTED BUREAUCRAT CONSTITUTES A
3 MAJOR EMERGENCY THAT THREATENS OR IS ABOUT TO THREATEN THIS
4 COMMONWEALTH AND THE SAFETY OR WELFARE OF THIS COMMONWEALTH
5 AND THEREFORE REQUIRES PROMPT AMENDMENT OF THE CONSTITUTION
6 OF PENNSYLVANIA BY THIS CONSTITUTIONAL AMENDMENT.

7 SECTION 2. THE FOLLOWING AMENDMENT TO THE CONSTITUTION OF
8 PENNSYLVANIA IS PROPOSED IN ACCORDANCE WITH ARTICLE XI:

9 THAT SECTION 11 OF ARTICLE I BE AMENDED TO READ:

10 § 11. COURTS TO BE OPEN; SUITS AGAINST THE COMMONWEALTH.

11 (A) ALL COURTS SHALL BE OPEN; AND EVERY MAN FOR AN INJURY
12 DONE HIM IN HIS LANDS, GOODS, PERSON OR REPUTATION SHALL HAVE
13 REMEDY BY DUE COURSE OF LAW, AND RIGHT AND JUSTICE ADMINISTERED
14 WITHOUT SALE, DENIAL OR DELAY. SUITS MAY BE BROUGHT AGAINST THE
15 COMMONWEALTH IN SUCH MANNER, IN SUCH COURTS AND IN SUCH CASES AS
16 THE LEGISLATURE MAY BY LAW DIRECT.

17 (B) AN INDIVIDUAL FOR WHOM A STATUTORY LIMITATIONS PERIOD
18 HAS ALREADY EXPIRED, OR WHOSE CLAIM WOULD OTHERWISE BE BARRED OR
19 LIMITED BY A STATUTORY CAP ON DAMAGES, SOVEREIGN IMMUNITY OR BY
20 GOVERNMENTAL OR OFFICIAL IMMUNITY, SHALL HAVE A PERIOD OF TWO
21 YEARS, WITHOUT BAR OR LIMITATION BY SUCH CAPS OR IMMUNITIES,
22 FROM THE TIME THAT THIS SUBSECTION BECOMES EFFECTIVE TO COMMENCE
23 AN ACTION ARISING FROM CHILDHOOD SEXUAL ABUSE, IN SUCH CASES AS
24 PROVIDED BY LAW AT THE TIME THAT THIS SUBSECTION BECOMES
25 EFFECTIVE.

26 SECTION 3. UPON PASSAGE BY THE GENERAL ASSEMBLY OF THIS
27 PROPOSED CONSTITUTIONAL AMENDMENT, THE SECRETARY OF THE
28 COMMONWEALTH SHALL PROCEED IMMEDIATELY TO COMPLY WITH THE
29 ADVERTISING REQUIREMENTS OF SECTION 1(A) OF ARTICLE XI OF THE
30 CONSTITUTION OF PENNSYLVANIA AND SHALL TRANSMIT THE REQUIRED

1 ADVERTISEMENTS TO TWO NEWSPAPERS IN EVERY COUNTY IN WHICH SUCH
2 NEWSPAPERS ARE PUBLISHED IN SUFFICIENT TIME AFTER PASSAGE OF
3 THIS PROPOSED CONSTITUTIONAL AMENDMENT. THE SECRETARY OF THE
4 COMMONWEALTH SHALL SUBMIT THIS PROPOSED CONSTITUTIONAL AMENDMENT
5 TO THE QUALIFIED ELECTORS OF THIS COMMONWEALTH AT THE FIRST
6 PRIMARY, GENERAL OR MUNICIPAL ELECTION WHICH MEETS THE
7 REQUIREMENTS OF AND IS IN CONFORMANCE WITH SECTION 1(A) OF
8 ARTICLE XI OF THE CONSTITUTION OF PENNSYLVANIA.