

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 951 Session of 2021

INTRODUCED BY ROZZI, MARCH 17, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 6, 2021

AN ACT

1 ~~Amending Title 42 (Judiciary and Judicial Procedure) of the~~ <--
2 ~~Pennsylvania Consolidated Statutes, in matters affecting~~
3 ~~government unites, further providing for exceptions to~~
4 ~~sovereign immunity and for exceptions to governmental~~
5 ~~immunity; and making a repeal.~~

6 AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE <--
7 PENNSYLVANIA CONSOLIDATED STATUTES, IN LIMITATION OF TIME,
8 FURTHER PROVIDING FOR INFANCY, INSANITY OR IMPRISONMENT; IN
9 MATTERS AFFECTING GOVERNMENT UNITS, FURTHER PROVIDING FOR
10 EXCEPTIONS TO SOVEREIGN IMMUNITY AND FOR EXCEPTIONS TO
11 GOVERNMENTAL IMMUNITY; AND MAKING A RELATED REPEAL.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Sections 8522(b)(10) and 8542(b)(9) of Title 42~~ <--
15 ~~of the Pennsylvania Consolidated Statutes, added November 26,~~
16 ~~2019 (P.L.641, No.87), are amended to read:~~

17 ~~§ 8522. Exceptions to sovereign immunity.~~

18 * * *

19 ~~(b) Acts which may impose liability. The following acts by~~
20 ~~a Commonwealth party may result in the imposition of liability~~
21 ~~on the Commonwealth and the defense of sovereign immunity shall~~
22 ~~not be raised to claims for damages caused by:~~

1 * * *

2 ~~(10) Sexual abuse. The following shall apply:~~

3 ~~(i) Conduct which constitutes an offense enumerated~~
4 ~~under section 5551(7) (relating to no limitation~~
5 ~~applicable) if the injuries to the plaintiff were caused~~
6 ~~by actions or omissions of the Commonwealth party which~~
7 ~~constitute negligence.~~

8 ~~(ii) This paragraph shall apply retroactively to a~~
9 ~~cause of action that arose prior to the effective date of~~
10 ~~this subparagraph.~~

11 § 8542. Exceptions to governmental immunity.

12 * * *

13 ~~(b) Acts which may impose liability. The following acts by~~
14 ~~a local agency or any of its employees may result in the~~
15 ~~imposition of liability on a local agency:~~

16 * * *

17 ~~(9) 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 local agency 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.~~

26 * * *

27 Section 2. Repeals are as follows:

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

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

4 ~~Section 3. This act shall take effect immediately.~~

5 SECTION 1. SECTION 5533(B) OF TITLE 42 OF THE PENNSYLVANIA <--
6 CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS AMENDED BY
7 ADDING SUBSECTIONS 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.

19 [(II) AS USED IN THIS PARAGRAPH, THE TERM "MINOR"
20 SHALL MEAN ANY INDIVIDUAL WHO HAS NOT YET ATTAINED 18
21 YEARS OF AGE.]

22 (2) (I) IF AN INDIVIDUAL ENTITLED TO BRING A CIVIL
23 ACTION ARISING FROM SEXUAL ABUSE IS UNDER 18 YEARS OF AGE
24 AT THE TIME THE CAUSE OF ACTION ACCRUES, THE INDIVIDUAL
25 SHALL HAVE A PERIOD OF 37 YEARS AFTER ATTAINING 18 YEARS
26 OF AGE IN WHICH TO COMMENCE AN ACTION FOR DAMAGES
27 REGARDLESS OF WHETHER THE INDIVIDUAL FILES A CRIMINAL
28 COMPLAINT REGARDING THE SEXUAL ABUSE.

29 (I.1) IF AN INDIVIDUAL ENTITLED TO BRING A CIVIL
30 ACTION ARISING FROM SEXUAL ABUSE IS AT LEAST 18 AND LESS

1 THAN 24 YEARS OF AGE AT THE TIME THE CAUSE OF ACTION
2 OCCURS, THE INDIVIDUAL SHALL HAVE UNTIL ATTAINING 30
3 YEARS OF AGE TO COMMENCE AN ACTION FOR DAMAGES REGARDLESS
4 OF WHETHER THE INDIVIDUAL FILES A CRIMINAL COMPLAINT
5 REGARDING THE SEXUAL ABUSE.

6 [(II) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM
7 "SEXUAL ABUSE" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
8 FOLLOWING SEXUAL ACTIVITIES BETWEEN AN INDIVIDUAL WHO IS
9 23 YEARS OF AGE OR YOUNGER AND AN ADULT, PROVIDED THAT
10 THE INDIVIDUAL BRINGING THE CIVIL ACTION ENGAGED IN SUCH
11 ACTIVITIES AS A RESULT OF FORCIBLE COMPULSION OR BY
12 THREAT OF FORCIBLE COMPULSION WHICH WOULD PREVENT
13 RESISTANCE BY A PERSON OF REASONABLE RESOLUTION:

14 (A) SEXUAL INTERCOURSE, WHICH INCLUDES
15 PENETRATION, HOWEVER SLIGHT, OF ANY BODY PART OR
16 OBJECT INTO THE SEX ORGAN OF ANOTHER;

17 (B) DEVIATE SEXUAL INTERCOURSE, WHICH INCLUDES
18 SEXUAL INTERCOURSE PER OS OR PER ANUS; AND

19 (C) INDECENT CONTACT, WHICH INCLUDES ANY
20 TOUCHING OF THE SEXUAL OR OTHER INTIMATE PARTS OF THE
21 PERSON FOR THE PURPOSE OF AROUSING OR GRATIFYING
22 SEXUAL DESIRE IN EITHER PERSON.

23 (III) FOR PURPOSES OF THIS PARAGRAPH, "FORCIBLE
24 COMPULSION" SHALL HAVE THE MEANING GIVEN TO IT IN 18
25 PA.C.S. § 3101 (RELATING TO DEFINITIONS).]

26 (C) TEMPORARY WINDOW TO FILE CLAIMS.--NOTWITHSTANDING
27 SUBSECTION (B) OR ANY OTHER PROVISION OF LAW TO THE CONTRARY,
28 FOR AN INDIVIDUAL ENTITLED TO BRING A CIVIL ACTION ARISING FROM
29 SEXUAL ABUSE IF THE INDIVIDUAL WAS UNDER 18 YEARS OF AGE AT THE
30 TIME THE CAUSE OF ACTION ACCRUED, AND IF THE LIMITATION PERIOD

1 FOR THAT CAUSE OF ACTION HAS EXPIRED, THE CIVIL ACTION IS
2 REVIVED AND THE INDIVIDUAL SHALL HAVE AN ADDITIONAL PERIOD OF
3 TWO YEARS FROM THE EFFECTIVE DATE OF THIS SUBSECTION TO COMMENCE
4 AN ACTION.

5 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
6 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
7 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

8 "FORCIBLE COMPULSION." AS DEFINED IN 18 PA.C.S. § 3101
9 (RELATING TO DEFINITIONS).

10 "MINOR." AN INDIVIDUAL WHO HAS NOT YET ATTAINED 18 YEARS OF
11 AGE.

12 "SEXUAL ABUSE." THE TERM SHALL INCLUDE, BUT NOT BE LIMITED
13 TO, THE FOLLOWING SEXUAL ACTIVITIES BETWEEN AN INDIVIDUAL WHO IS
14 23 YEARS OF AGE OR YOUNGER AND AN ADULT, PROVIDED THAT THE
15 INDIVIDUAL BRINGING THE CIVIL ACTION ENGAGED IN SUCH ACTIVITIES
16 AS A RESULT OF FORCIBLE COMPULSION OR BY THREAT OF FORCIBLE
17 COMPULSION WHICH WOULD PREVENT RESISTANCE BY A PERSON OF
18 REASONABLE RESOLUTION:

19 (1) SEXUAL INTERCOURSE, WHICH INCLUDES PENETRATION,
20 HOWEVER SLIGHT, OF ANY BODY PART OR OBJECT INTO THE SEX ORGAN
21 OF ANOTHER;

22 (2) DEVIATE SEXUAL INTERCOURSE, WHICH INCLUDES SEXUAL
23 INTERCOURSE PER OS OR PER ANUS; AND

24 (3) INDECENT CONTACT, WHICH INCLUDES ANY TOUCHING OF THE
25 SEXUAL OR OTHER INTIMATE PARTS OF THE PERSON FOR THE PURPOSE
26 OF AROUSING OR GRATIFYING SEXUAL DESIRE IN EITHER PERSON.

27 SECTION 2. SECTIONS 8522(B)(10) AND 8542(B)(9) OF TITLE 42
28 ARE AMENDED TO READ:

29 § 8522. EXCEPTIONS TO SOVEREIGN IMMUNITY.

30 * * *

1 (B) ACTS WHICH MAY IMPOSE LIABILITY.--THE FOLLOWING ACTS BY
2 A COMMONWEALTH PARTY MAY RESULT IN THE IMPOSITION OF LIABILITY
3 ON THE COMMONWEALTH AND THE DEFENSE OF SOVEREIGN IMMUNITY SHALL
4 NOT BE RAISED TO CLAIMS FOR DAMAGES CAUSED BY:

5 * * *

6 (10) SEXUAL ABUSE.--THE FOLLOWING SHALL APPLY:

7 (I) CONDUCT WHICH CONSTITUTES AN OFFENSE ENUMERATED
8 UNDER SECTION 5551(7) (RELATING TO NO LIMITATION
9 APPLICABLE) IF THE INJURIES TO THE PLAINTIFF WERE CAUSED
10 BY ACTIONS OR OMISSIONS OF THE COMMONWEALTH PARTY WHICH
11 CONSTITUTE NEGLIGENCE.

12 (II) THIS PARAGRAPH SHALL APPLY RETROACTIVELY TO A
13 CAUSE OF ACTION THAT AROSE PRIOR TO THE EFFECTIVE DATE OF
14 THIS SUBPARAGRAPH AND PROSPECTIVELY TO A CAUSE OF ACTION
15 THAT ARISES AFTER THE EFFECTIVE DATE OF THIS
16 SUBPARAGRAPH.

17 § 8542. EXCEPTIONS TO GOVERNMENTAL IMMUNITY.

18 * * *

19 (B) ACTS WHICH MAY IMPOSE LIABILITY.--THE FOLLOWING ACTS BY
20 A LOCAL AGENCY OR ANY OF ITS EMPLOYEES MAY RESULT IN THE
21 IMPOSITION OF LIABILITY ON A LOCAL AGENCY:

22 * * *

23 (9) SEXUAL ABUSE.--THE FOLLOWING SHALL APPLY:

24 (I) CONDUCT WHICH CONSTITUTES AN OFFENSE ENUMERATED
25 UNDER SECTION 5551(7) (RELATING TO NO LIMITATION
26 APPLICABLE) IF THE INJURIES TO THE PLAINTIFF WERE CAUSED
27 BY ACTIONS OR OMISSIONS OF THE LOCAL AGENCY WHICH
28 CONSTITUTE NEGLIGENCE.

29 (II) THIS PARAGRAPH SHALL APPLY RETROACTIVELY TO A
30 CAUSE OF ACTION THAT AROSE PRIOR TO THE EFFECTIVE DATE OF

1 THIS SUBPARAGRAPH AND PROSPECTIVELY TO A CAUSE OF ACTION
2 THAT ARISES AFTER THE EFFECTIVE DATE OF THIS
3 SUBPARAGRAPH.

4 * * *

5 SECTION 3. THIS ACT SHALL APPLY AS FOLLOWS:

6 (1) THE ADDITION OF 42 PA.C.S. § 5533(C) SHALL APPLY TO
7 REVIVE AN ACTION THAT WAS BARRED BY AN EXISTING STATUTE OF
8 LIMITATIONS ON THE EFFECTIVE DATE OF THIS SECTION.

9 (2) THE AMENDMENT OF 42 PA.C.S. §§ 8522 (B) (10) AND 8542
10 (B) (9) SHALL APPLY RETROACTIVELY TO AN ACTION WHERE THE
11 LIMITATIONS PERIOD HAS NOT EXPIRED PRIOR TO THE EFFECTIVE
12 DATE OF THIS SECTION.

13 (3) THE AMENDMENT OF 42 PA.C.S. §§ 8522 (B) (10) AND 8542
14 (B) (9) SHALL APPLY TO AN ACTION SUBJECT TO 42 PA.C.S. §
15 5533(C) THAT WAS BARRED BY AN EXISTING STATUTE OF LIMITATIONS
16 ON THE EFFECTIVE DATE OF THIS SECTION.

17 SECTION 4. NOTHING IN THIS ACT SHALL PERMIT THE APPLICATION
18 OF THE ADDITION OF 42 PA.C.S. § 5533(C) TO AN ACTION:

19 (1) THAT IS SUBJECT TO A FINAL JUDGMENT WHICH, ON THE
20 EFFECTIVE DATE OF THIS SECTION, IS NOT SUBJECT TO APPEAL; OR

21 (2) THAT, ON THE EFFECTIVE DATE OF THIS SECTION, HAS
22 BEEN NONJUDICIALLY RESOLVED IN ITS ENTIRETY BY THE PARTIES,
23 IN A FORM WHICH IS ENFORCEABLE.

24 SECTION 4.1. THE SUPREME COURT OF PENNSYLVANIA SHALL HAVE
25 EXTRAORDINARY JURISDICTION TO HEAR A CHALLENGE TO OR TO RENDER A
26 DECLARATORY JUDGMENT CONCERNING THE CONSTITUTIONALITY OF THIS
27 ACT. THE SUPREME COURT OF PENNSYLVANIA MAY TAKE ACTION AS IT
28 DEEMS APPROPRIATE, CONSISTENT WITH THE SUPREME COURT RETAINING
29 JURISDICTION OVER THE MATTER, TO FIND FACTS OR TO EXPEDITE A
30 FINAL JUDGMENT IN CONNECTION WITH THE CHALLENGE OR REQUEST FOR

1 DECLARATORY RELIEF.

2 SECTION 4.2. THE PROVISIONS OF THIS ACT ARE NONSEVERABLE. IF
3 ANY PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR
4 CIRCUMSTANCE IS HELD INVALID, THE REMAINING PROVISIONS OR
5 APPLICATIONS OF THIS ACT ARE VOID.

6 SECTION 5. REPEALS ARE AS FOLLOWS:

7 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
8 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE AMENDMENT OF 42
9 PA.C.S. §§ 8522(B)(10) AND 8542(B)(9).

10 (2) SECTION 10(3)(II) OF THE ACT OF NOVEMBER 26, 2019
11 (P.L.641, NO.87), IS REPEALED INSOFAR AS THE SECTION APPLIES
12 TO 42 PA.C.S. §§ 8522(B)(10) AND 8542(B)(9).

13 SECTION 6. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.