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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

MEMORANDUM

DATE: February 28, 2011
TO: All Members of the House of Representatives
FROM: Rep. Michael P. McGeehan
SUBJECT: **Legislation to Suspend Civil Statute of Limitation for Adult Victims of Childhood Abuse to Sue Abusers and Entities**

It has been brought to my attention by the Philadelphia District Attorney's Office that my House Bill 853 does not help those victims who wish to bring suit against the entity which employed their perpetrator or who had previously brought a civil action and had been dismissed because it was filed beyond the statute of limitations.

Attached is a copy of the updated language which **I will introduce by the end of the day today**. Please note in the language on line 23 and 24 which calls for the very high civil standard of "finding of gross negligence on the part of the entity."

If you wish to co-sponsor this legislation, please respond to this e-mail immediately. Thank you.

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 limitations of time for commencement of civil action arising
4 from childhood sexual abuse.

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

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

9 § 5533. Infancy, insanity or imprisonment.

10 * * *

11 (b) Infancy.--

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

1 subchapter.

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

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

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

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

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

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

29 (iii) For purposes of this paragraph, "forcible
30 compulsion" shall have the meaning given to it in 18

1 Pa.C.S. § 3101 (relating to definitions).

2 (3) Notwithstanding any other provision of law, a civil
3 action that is permitted to be filed pursuant to paragraph
4 (2) but would otherwise be barred as of July 1, 2011, solely
5 because the statute of limitations has expired is revived,
6 and such a civil action may be commenced within two years of
7 July 1, 2011. 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 July 1, 2011.

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 the
30 age of 30 at the time the statute of limitations expired.

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

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

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

9 Section 2. This act shall take effect immediately.