

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 406 Session of 2021

INTRODUCED BY MUTH, COLLETT, KEARNEY, SANTARSIERO, L. WILLIAMS,  
FONTANA, STREET, HUGHES, CAPPELLETTI, TARTAGLIONE, SCHWANK,  
COSTA, KANE, COMMITTA, HAYWOOD AND BOSCOLA, MARCH 15, 2021

REFERRED TO JUDICIARY, MARCH 15, 2021

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in child protective services, further providing for  
4 penalties; in limitation of time, further providing for  
5 infancy, insanity or imprisonment, for no limitation  
6 applicable and for other offenses; in particular rights and  
7 immunities, providing for contracts or agreements for  
8 nondisclosure of certain conduct; and, in matters affecting  
9 government units, further providing for exceptions to  
10 sovereign immunity and for exceptions to governmental  
11 immunity.

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

14 Section 1. Section 6319(b) of Title 23 of the Pennsylvania  
15 Consolidated Statutes, amended November 26, 2019 (P.L.648,  
16 No.88), is amended to read:

17 § 6319. Penalties.

18 \* \* \*

19 (b) Continuing course of action.--[If a]

20 (1) A person's conduct under this section constitutes a  
21 continuing course of action if either of the following apply:

22 (i) A person's willful failure under this section to

1 report an individual suspected of child abuse continues  
2 while the person knows or has reasonable cause to suspect  
3 a child is being subjected to child abuse. [by the same  
4 individual, or while the person knows or has reasonable  
5 cause to suspect that the same individual continues to  
6 have direct contact with children through the  
7 individual's employment, program, activity or service,  
8 the person commits a felony of the third degree, except  
9 that if the child abuse constitutes a felony of the first  
10 degree or higher, the person commits a felony of the  
11 second degree.]

12 (ii) A person required by this chapter to report a  
13 case of suspected child abuse or to make a referral to  
14 the appropriate authorities knows or has reasonable cause  
15 to believe a person's willful failure under this section  
16 may subject a child or additional children to child  
17 abuse.

18 (2) An offense under this subsection is a felony of the  
19 third degree, except that if the child abuse constitutes a  
20 felony of the first degree or higher, the person commits a  
21 felony of the second degree.

22 \* \* \*

23 Section 2. Section 5533(b)(2) of Title 42, amended November  
24 26, 2019 (P.L.641, No.87), is amended and the section is amended  
25 by adding subsections to read:

26 § 5533. Infancy, insanity or imprisonment.

27 \* \* \*

28 (b) Infancy.--

29 \* \* \*

30 (2) (i) If an individual entitled to bring a civil

1 action arising from sexual abuse is under 18 years of age  
2 at the time the cause of action accrues, the individual  
3 [shall have a period of 37 years after attaining 18 years  
4 of age in which to] may commence an action for damages  
5 regardless of whether the individual files a criminal  
6 complaint regarding the sexual abuse or the age of the  
7 individual.

8 [(i.1) If an individual entitled to bring a civil  
9 action arising from sexual abuse is at least 18 and less  
10 than 24 years of age at the time the cause of action  
11 occurs, the individual shall have until attaining 30  
12 years of age to commence an action for damages regardless  
13 of whether the individual files a criminal complaint  
14 regarding the sexual abuse.]

15 (ii) For the purposes of this paragraph, the term  
16 "childhood sexual abuse" shall include, but not be  
17 limited to, the following sexual activities between [an  
18 individual who is 23 years of age or younger] a minor and  
19 an adult, provided that the individual bringing the civil  
20 action engaged in such activities as a result of forcible  
21 compulsion or by threat of forcible compulsion which  
22 would prevent resistance by a person of reasonable  
23 resolution:

24 (A) sexual intercourse, which includes  
25 penetration, however slight, of any body part or  
26 object into the sex organ of another;

27 (B) deviate sexual intercourse, which includes  
28 sexual intercourse per os or per anus; and

29 (C) indecent contact, which includes any  
30 touching of the sexual or other intimate parts of the

1 person for the purpose of arousing or gratifying  
2 sexual desire in either person.

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

6 (c) Postinfancy action.--

7 (1) If an individual entitled to bring a civil action  
8 arising from sexual abuse is 18 years of age or older at the  
9 time the cause of action accrues, the individual may commence  
10 an action for damages regardless of whether the individual  
11 files a criminal complaint regarding the sexual abuse or the  
12 age of the individual.

13 (2) For the purpose of this paragraph, the term "sexual  
14 abuse" shall include actions that constitute an offense under  
15 the following provisions of 18 Pa.C.S. (relating to crimes  
16 and offenses):

17 Section 3011(a) (relating to trafficking in  
18 individuals).

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

21 Section 3121 (relating to rape).

22 Section 3123 (relating to involuntary deviate sexual  
23 intercourse).

24 Section 3124.1 (relating to sexual assault).

25 Section 3124.2 (relating to institutional sexual  
26 assault).

27 Section 3125 (relating to aggravated indecent  
28 assault).

29 Section 4302 (relating to incest).

30 (d) Revival of claims.--The following shall apply:

1       (1) Notwithstanding subsection (b) or any other  
2       provision of law, for an individual entitled to bring a civil  
3       action arising from childhood sexual abuse where the  
4       limitation period has expired, the individual shall have an  
5       additional period of two years from the effective date of  
6       this subsection to commence an action.

7       (2) Notwithstanding subsection (c) or any other  
8       provision of law, for an individual entitled to bring a civil  
9       action arising from sexual abuse where the limitation period  
10       has expired, the individual shall have an additional period  
11       of two years from the effective date of this subsection to  
12       commence an action.

13       Section 3. Section 5551 of Title 42 is amended by adding a  
14 paragraph to read:

15       § 5551. No limitation applicable.

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

18               \* \* \*

19       (8) An offense under any of the following provisions of  
20       18 Pa.C.S., or a conspiracy or solicitation to commit an  
21       offense under any of the following provisions of 18 Pa.C.S.  
22       if the offense results from the conspiracy or solicitation,  
23       if the victim was 18 years of age or older at the time of the  
24       offense:

25               Section 3011(a).

26               Section 3012 as it relates to sexual servitude.

27               Section 3121.

28               Section 3123.

29               Section 3124.1.

30               Section 3124.2.

1           Section 3125.

2           Section 4302.

3       Section 4.   Section 5552(b.1) of Title 42 is amended to read:

4   § 5552.   Other offenses.

5       \* \* \*

6       (b.1)   Major sexual offenses.--Except as provided in section  
7   5551(7) or (8) (relating to no limitation applicable), a  
8   prosecution for any of the following offenses under Title 18  
9   must be commenced within 12 years after it is committed:

10       [Section 3121 (relating to rape).

11       Section 3122.1 (relating to statutory sexual assault).

12       Section 3123 (relating to involuntary deviate sexual  
13   intercourse).

14       Section 3124.1 (relating to sexual assault).

15       Section 3124.2 (relating to institutional sexual  
16   assault).

17       Section 3125 (relating to aggravated indecent assault).

18       Section 4302 (relating to incest).]

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

20       \* \* \*

21       Section 5.   Section 8316.2(a) of Title 42 is amended by  
22   adding a paragraph and the section is amended by adding a  
23   subsection to read:

24   § 8316.2.   Contracts or agreements for nondisclosure of certain  
25               conduct.

26       (a)   Void provisions.--A provision of an agreement, contract,  
27   settlement or similar instrument that does any of the following  
28   shall be void and unenforceable:

29           (1)   prohibits or attempts to prohibit the disclosure of  
30       the name of a person suspected of childhood sexual abuse to

1 law enforcement authorities;

2 (2) suppresses or attempts to suppress information  
3 relevant to an investigation by law enforcement authorities  
4 into a claim of childhood sexual abuse; or

5 (3) impairs or attempts to impair the ability of a  
6 person to report a claim of childhood sexual abuse to law  
7 enforcement authorities.

8 (4) impairs or attempts to impair the ability of an  
9 individual to publicly disclose a claim of sexual abuse.

10 (a.1) Exception.--An individual may enter into, revise or  
11 amend an agreement, contract, settlement or similar instrument  
12 to include a provision prohibited under subsection (a)(1) or (4)  
13 if the individual who was the victim of sexual abuse requests a  
14 provision be included.

15 \* \* \*

16 Section 6. Sections 8522(b)(10) and 8542(b)(9) of Title 42,  
17 added November 26, 2019 (P.L.641, No.87), are amended to read:  
18 § 8522. Exceptions to sovereign immunity.

19 \* \* \*

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

24 \* \* \*

25 (10) Sexual abuse.--Conduct which constitutes an offense  
26 enumerated under section 5551(7) or (8) (relating to no  
27 limitation applicable) if the injuries to the plaintiff were  
28 caused by actions or omissions of the Commonwealth party  
29 which constitute negligence.

30 § 8542. Exceptions to governmental immunity.

1       \* \* \*

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

5       \* \* \*

6       (9) Sexual abuse.--Conduct which constitutes an offense  
7 enumerated under section 5551(7) or (8) (relating to no  
8 limitation applicable) if the injuries to the plaintiff were  
9 caused by actions or omissions of the local agency which  
10 constitute negligence.

11       \* \* \*

12       Section 7. This act shall apply as follows:

13       (1) The amendment or addition of 42 Pa.C.S. §§ 5551(8)  
14 and 5552(b.1) shall not be applied to revive an action which  
15 has been barred by an existing statute of limitations on the  
16 effective date of this section.

17       (2) The amendment or addition of the following  
18 provisions shall be applied retroactively to civil actions,  
19 including to revive an action which was barred by a statute  
20 of limitations prior to the effective date of this section:

21               (i) 42 Pa.C.S. § 5533(d).

22               (ii) 42 Pa.C.S. § 8522(b)(10).

23               (iii) 42 Pa.C.S. § 8542(b)(9).

24       (3) The amendment of 42 Pa.C.S. § 5533(b)(2) shall apply  
25 retroactively to civil actions where the limitation period  
26 has not expired as of the effective date of this section.

27       Section 8. This act shall take effect as follows:

28       (1) This section shall take effect immediately.

29       (2) The remainder of this act shall take effect in 60  
30 days.