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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 878 Session of  
2011

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INTRODUCED BY MCGEEHAN, K. BOYLE, KORTZ, V. BROWN, ROEBUCK,  
PAYTON, DAVIDSON, CRUZ, SANTARSIERO, BRIGGS, BISHOP AND  
SWANGER, MARCH 2, 2011

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REFERRED TO COMMITTEE ON JUDICIARY, MARCH 2, 2011

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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.