

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 878 Session of 2011

INTRODUCED BY MCGEEHAN, K. BOYLE, KORTZ, V. BROWN, ROEBUCK, PAYTON, DAVIDSON, CRUZ, SANTARSIERO, BRIGGS, BISHOP, SWANGER, JOSEPHS, MIRABITO, K. SMITH, REICHLEY, DONATUCCI, FARRY, YOUNGBLOOD, HORNAMAN, DAVIS, MILNE, MURPHY AND GERBER, MARCH 2, 2011

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 20, 2012

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; AND PROVIDING FOR A LIMITATION
5 ON CERTAIN CONTINGENCY FEES. ←

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

8 Section 1. Section 5533(b) of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended AND THE SECTION IS AMENDED BY ←
10 ADDING A SUBSECTION to read:

11 § 5533. Infancy, insanity or imprisonment.

12 \* \* \*

13 (b) Infancy.--

14 (1) (i) If an individual entitled to bring a civil
15 action is an unemancipated minor at the time the cause of
16 action accrues, the period of minority shall not be
17 deemed a portion of the time period within which the

1 action must be commenced. Such person shall have the same  
2 time for commencing an action after attaining majority as  
3 is allowed to others by the provisions of this  
4 subchapter.

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

8 (2) (i) If an individual entitled to bring a civil  
9 action arising from childhood sexual abuse is under 18  
10 years of age at the time the cause of action accrues, the  
11 individual shall have a period of [12] 32 years after  
12 attaining 18 years of age in which to commence an action  
13 for damages regardless of whether the individual files a  
14 criminal complaint regarding the childhood 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 a  
18 minor and an adult, provided that the individual bringing  
19 the civil action engaged in such activities as a result  
20 of forcible compulsion or by threat of forcible  
21 compulsion which would prevent resistance by a person of  
22 reasonable resolution:

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

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

28 (C) indecent contact, which includes any  
29 touching of the sexual or other intimate parts of the  
30 person for the purpose of arousing or gratifying

1 sexual desire in either person.

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

5 ~~(3) Notwithstanding any other provision of law, a civil~~ ←  
6 ~~action that is permitted to be filed pursuant to paragraph~~  
7 ~~(2) but would otherwise be barred as of July 1, 2011, solely~~  
8 ~~because the statute of limitations has expired is revived,~~  
9 ~~and such a civil action may be commenced within two years of~~  
10 ~~July 1, 2011. Nothing in this subsection shall be construed~~  
11 ~~to alter the applicable statute of limitations period of a~~  
12 ~~civil action arising from childhood sexual abuse that is not~~  
13 ~~time barred as of July 1, 2011.~~

14 ~~(4) If a person committing an act of childhood sexual~~  
15 ~~abuse against a minor was employed by an institution, agency,~~  
16 ~~firm, business, corporation or other public or private legal~~  
17 ~~entity that owed a duty of care to the victim, or the accused~~  
18 ~~and the minor were engaged in some activity over which the~~  
19 ~~entity had some degree of responsibility or control, damages~~  
20 ~~against the entity shall be awarded under paragraph (3) only~~  
21 ~~if there is a finding of gross negligence on the part of the~~  
22 ~~entity.~~

23 ~~(5) If an individual or the individual's legal~~  
24 ~~representative has previously brought a civil action arising~~  
25 ~~from childhood sexual abuse and that suit has been dismissed~~  
26 ~~because it was filed beyond the statute of limitations that~~  
27 ~~applied at that time, the individual or the individual's~~  
28 ~~legal representative may petition the court to reopen the~~  
29 ~~action within the period provided in paragraph (3). The court~~  
30 ~~may grant the petition if it determines that any of the~~

1 following exist:

2 ~~(i) The victim of the childhood abuse was under the~~  
3 ~~age of 30 at the time the statute of limitations expired.~~

4 ~~(ii) The existence of newly discovered evidence~~  
5 ~~that, with reasonable diligence, could not have been~~  
6 ~~discovered before the prior statute of limitations~~  
7 ~~expired.~~

8 ~~(iii) Fraud, inexcusable neglect, misrepresentation~~  
9 ~~or misconduct by an opposing party.~~

10 ~~(iv) Any other extraordinary circumstances that the~~  
11 ~~court believes are in the interest of justice.~~

12 (C) LIMITATION.--FOR AN ACTION BROUGHT UNDER SUBSECTION ←  
13 (B) (2), A CONTINGENCY FEE PAID TO AN ATTORNEY MAY NOT EXCEED 15%  
14 OF THE AMOUNT OF THE AWARD OR SETTLEMENT.

15 Section 2. This act shall take effect immediately.