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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 261 Session of  
2017

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INTRODUCED BY SCARNATI, CORMAN AND GORDNER, JANUARY 30, 2017

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REFERRED TO JUDICIARY, JANUARY 30, 2017

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in limitation of time,  
3 further providing for infancy, insanity or imprisonment, for  
4 no limitation applicable and for other offenses; and, in  
5 matters affecting government units, further providing for  
6 exceptions to sovereign immunity and for exceptions to  
7 governmental immunity.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The General Assembly finds and declares as  
11 follows:

12 (1) The Remedies Clause found in section 11 of Article I  
13 of the Constitution of Pennsylvania has been interpreted by  
14 the Pennsylvania Supreme Court to provide a constitutional  
15 guarantee of access to legal remedies and defenses.

16 (2) The Pennsylvania Supreme Court has interpreted the  
17 Remedies Clause as providing a vested right to accrued  
18 defenses that cannot be infringed upon by subsequent law.

19 (3) Pursuant to the interpretation by the Pennsylvania  
20 Supreme Court, the General Assembly is constitutionally  
21 precluded from adopting a retroactive change extending a

1 statute of limitations or invalidating a defense based on a  
2 statute of limitations that has already expired as against a  
3 particular defendant.

4 (4) Statutes of limitation recognize that the right to  
5 assert a cause of action and the right to assert a defense to  
6 that action are on an equal footing in this Commonwealth.

7 (5) Statutes of limitation promote diligence and repose,  
8 diminish uncertainty and allow every person to allocate  
9 resources appropriately.

10 (6) Statutes of limitation promote accurate fact finding  
11 in litigation, as evidence and testimony become degraded or  
12 unavailable over time.

13 (7) Therefore, it is the intent of the General Assembly  
14 to eliminate statutes of limitation only in rare  
15 circumstances in which delayed discovery of the cause of  
16 action is particularly likely and the right to defend against  
17 the claim is not significantly undermined.

18 Section 2. Section 5533(b)(2)(i) of Title 42 of the  
19 Pennsylvania Consolidated Statutes is amended and the section is  
20 amended by adding a paragraph to read:

21 § 5533. Infancy, insanity or imprisonment.

22 \* \* \*

23 (b) Infancy.--

24 \* \* \*

25 (2) (i) [If] Except as provided under paragraph (3), if  
26 an individual entitled to bring a civil action arising  
27 from childhood sexual abuse is under 18 years of age at  
28 the time the cause of action accrues, the individual  
29 shall have a period of [12] 32 years after attaining 18  
30 years of age in which to commence an action for damages

1 regardless of whether the individual files a criminal  
2 complaint regarding the childhood sexual abuse.

3 \* \* \*

4 (3) If an individual entitled to bring a civil action  
5 arising from childhood sexual abuse is under 18 years of age  
6 at the time the cause of action accrues, the individual shall  
7 have an unlimited period of time to commence an action for  
8 damages against the following individuals:

9 (i) The individual who committed the act of  
10 childhood sexual abuse.

11 (ii) An individual who conspired with the individual  
12 who committed the act of childhood sexual abuse for the  
13 purpose of bringing about the abuse.

14 (iii) (A) An individual who, having actual  
15 knowledge of the childhood sexual abuse perpetrated  
16 against the individual, failed to prevent any  
17 subsequent childhood sexual abuse by the same  
18 perpetrator against the same individual by reporting  
19 the abuse to law enforcement officials or to a State  
20 or county child protective services agency during the  
21 victim's minority.

22 (B) No cause of action shall accrue under this  
23 subparagraph against an individual who was aware that  
24 a report of the childhood sexual abuse had already  
25 been made by another individual or entity to law  
26 enforcement officials or to a State or county child  
27 protective services agency.

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

30 § 5551. No limitation applicable.

1 A prosecution for the following offenses may be commenced at  
2 any time:

3 \* \* \*

4 (7) An offense under any of the following provisions of  
5 18 Pa.C.S. (relating to crimes and offenses), or a conspiracy  
6 or solicitation to commit an offense under any of the  
7 following provisions of 18 Pa.C.S. if the offense is  
8 facilitated by the conspiracy or solicitation, if the victim  
9 was under 18 years of age at the time of the offense:

10 Section 3011(b) (relating to trafficking in individuals).

11 Section 3012 (relating to involuntary servitude) as it  
12 relates to sexual servitude.

13 Section 3121 (relating to rape).

14 Section 3122.1 (relating to statutory sexual assault).

15 Section 3123 (relating to involuntary deviate sexual  
16 intercourse).

17 Section 3124.1 (relating to sexual assault).

18 Section 3124.2 (relating to institutional sexual  
19 assault).

20 Section 3125 (relating to aggravated indecent assault).

21 Section 4302 (relating to incest).

22 Section 4. Section 5552(b.1) and (c)(3) of Title 42 are  
23 amended to read:

24 § 5552. Other offenses.

25 \* \* \*

26 (b.1) Major sexual offenses.--[A] Except as provided in  
27 section 5551(7) (relating to no limitation applicable), a  
28 prosecution for any of the following offenses under Title 18  
29 must be commenced within 12 years after it is committed:

30 Section 3121 (relating to rape).

1 Section 3122.1 (relating to statutory sexual assault).

2 Section 3123 (relating to involuntary deviate sexual  
3 intercourse).

4 Section 3124.1 (relating to sexual assault).

5 Section 3124.2(a) and (a.2) (relating to institutional  
6 sexual assault).

7 Section 3125 (relating to aggravated indecent assault).

8 Section 4302 (relating to incest).

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

10 (c) Exceptions.--If the period prescribed in subsection (a),  
11 (b) or (b.1) has expired, a prosecution may nevertheless be  
12 commenced for:

13 \* \* \*

14 (3) Any sexual offense committed against a minor who is  
15 less than 18 years of age any time up to the later of the  
16 period of limitation provided by law after the minor has  
17 reached 18 years of age or the date the minor reaches 50  
18 years of age. As used in this paragraph, the term "sexual  
19 offense" means a crime under the following provisions of  
20 Title 18 (relating to crimes and offenses):

21 [Section 3011(b) (relating to trafficking in  
22 individuals).

23 Section 3012 (relating to involuntary servitude) as  
24 it relates to sexual servitude.

25 Section 3121 (relating to rape).

26 Section 3122.1 (relating to statutory sexual  
27 assault).

28 Section 3123 (relating to involuntary deviate sexual  
29 intercourse).

30 Section 3124.1 (relating to sexual assault).

1           Section 3125 (relating to aggravated indecent  
2 assault).]

3           Section 3126 (relating to indecent assault).

4           Section 3127 (relating to indecent exposure).

5           [Section 4302 (relating to incest).]

6           Section 4304 (relating to endangering welfare of  
7 children).

8           Section 6301 (relating to corruption of minors).

9           Section 6312(b) (relating to sexual abuse of  
10 children).

11          Section 6320 (relating to sexual exploitation of  
12 children).

13          \* \* \*

14          Section 5. Sections 8522(b) and 8542(b) of Title 42 are  
15 amended by adding paragraphs to read:

16 § 8522. Exceptions to sovereign immunity.

17          \* \* \*

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

22          \* \* \*

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

28 § 8542. Exceptions to governmental immunity.

29          \* \* \*

30          (b) Acts which may impose liability.--The following acts by

1 a local agency or any of its employees may result in the  
2 imposition of liability on a local agency:

3 \* \* \*

4 (9) Sexual abuse.--Conduct that is proscribed by section  
5 5551(7) (relating to no limitation applicable) if the  
6 claimant establishes that:

7 (i) the local agency acted in a negligent manner;  
8 and

9 (ii) the action under subparagraph (i) caused injury  
10 to the claimant.

11 \* \* \*

12 Section 6. This act shall apply as follows:

13 (1) The addition of 42 Pa.C.S. §§ 5533(b) (3), 8522(b)  
14 (10) and 8542(b) (9) shall apply to causes of action which  
15 accrue on or after the effective date of this section.

16 (2) The amendment or addition of 42 Pa.C.S. §§ 5533(b)  
17 (2) (i) and (3), 5551(7) and 5552(b.1) and (c) (3) shall not be  
18 applied to revive an action that has been barred by an  
19 existing statute of limitations on the effective date of this  
20 section.

21 Section 7. This act shall take effect immediately.